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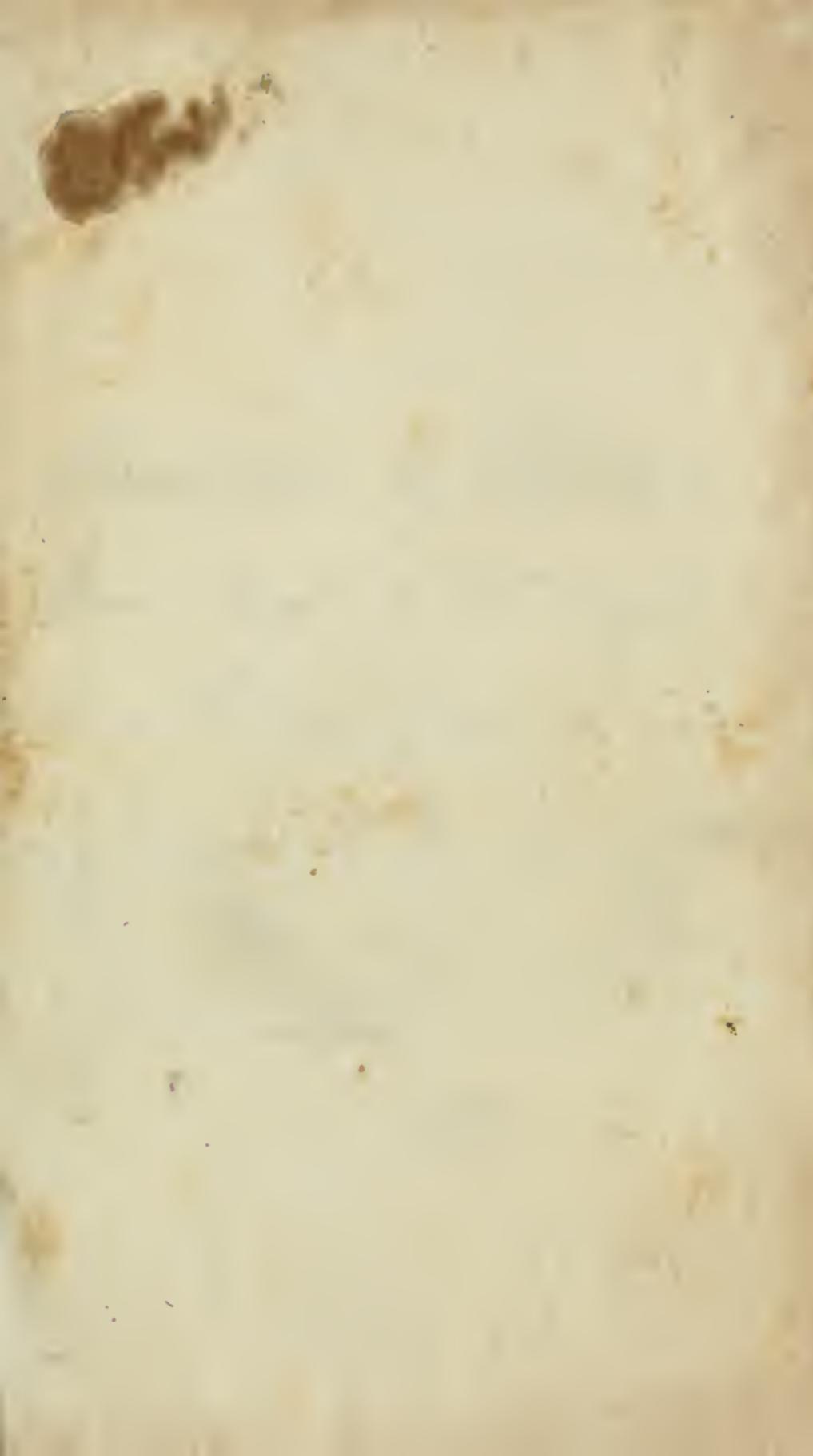
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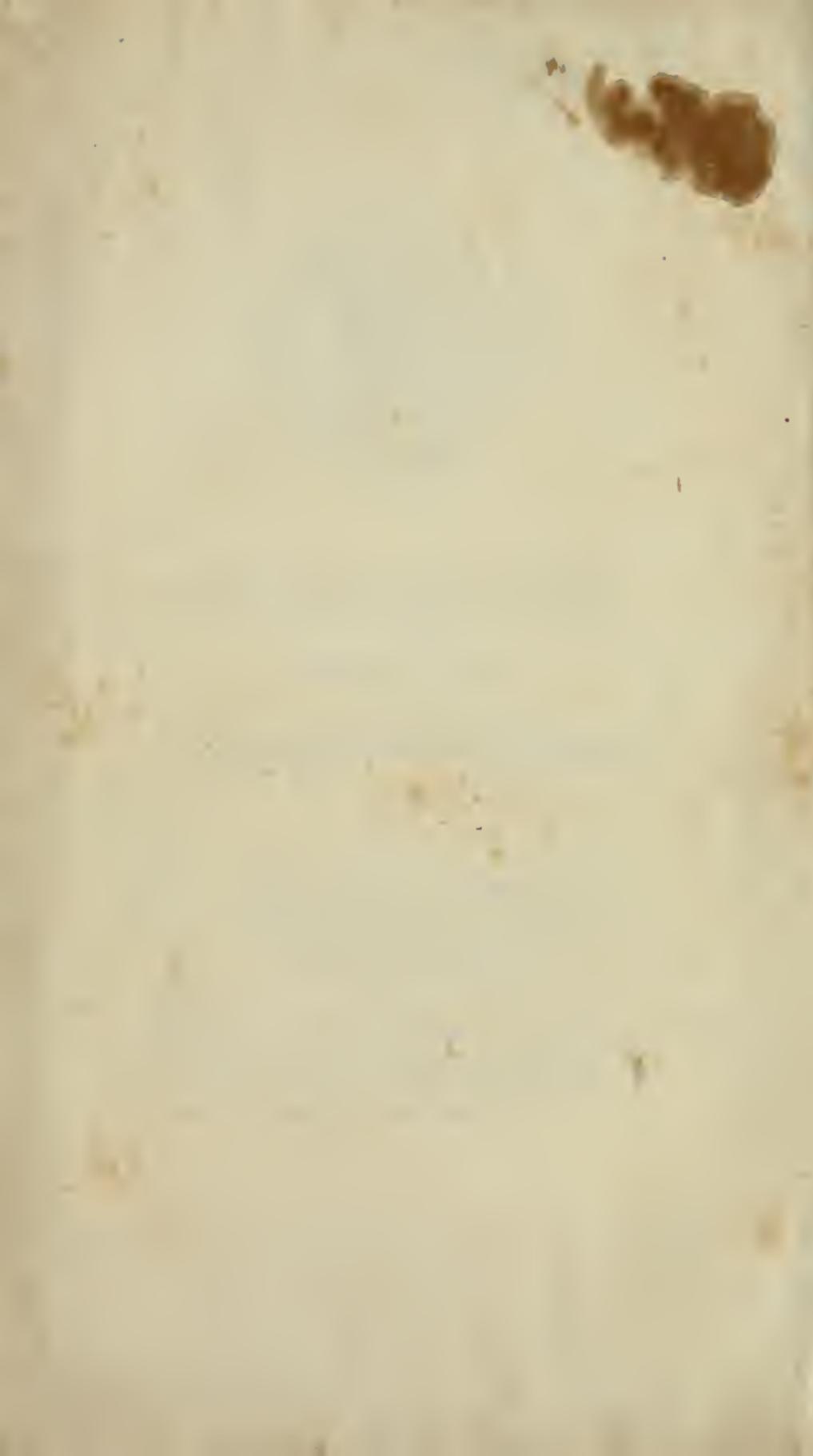
by

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explorer, and scholar





Presentation by Rosalina
Burr. Esq^r. to W^m. H. Phelps,
as a token of respect after
his Marriage to E. Burr.

May their esteem mutually
increase.

W. D.

1845

and all the more natural
and all the more natural
and all the more natural
and all the more natural

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INTRODUCTION
TO THE
SCIENCE OF GOVERNMENT, -
AND
COMPEND
OF
CONSTITUTIONAL AND STATUTORY LAW.
COMPREHENDING
A GENERAL VIEW OF THE
GOVERNMENT OF THE UNITED STATES;
WITH
PRACTICAL OBSERVATIONS ON THE
DUTIES OF CITIZENS
ADAPTED TO PURPOSES OF INSTRUCTION IN FAMILIES
AND SCHOOLS.

6

BY A. W. YOUNG.

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PREFACE.

It is the peculiar fortune of the people of the United States, to live under a government that secures to them, in an extraordinary degree, the blessings of civil and religious liberty. It is believed that no other form of government is capable of conferring upon its citizens an equal amount of happiness.

Whatever, therefore, tends to give stability to our political institutions, deserves the regard of every citizen. With this view the attention of the people is wisely directed to the encouragement of education, as one of the principal means by which the blessings of freedom may be transmitted to their descendants.

Under our constitution, sovereignty resides with the people: in other words, they have the power of governing themselves. Consequently, it is of the first importance, that the depositaries of political power should know how to apply this power intelligently and judiciously. The power to make and to administer the laws is delegated to their representatives; and they should be competent to judge when, and how far, this power is constitutionally and beneficially exercised.

Distinguished as the American people are for their comparative general intelligence, a large portion of them, it must be confessed, are greatly wanting in political knowledge. And while so many books have been prepared to facilitate the means of instruction, and so much has been done in various ways to promote the interests of education generally, it is remarkable that the science of government has received so little attention.

Multitudes in this republic are annually arriving at that age when they are to exercise, for the first time, their privileges as citizens. In the state of New York alone, there are about *fifteen thousand*. This number is composed, chiefly, of those whose education does not embrace even the first principles of political science. It is not to

be expected that political power, in such hands, can be exercised with safety to the government, or with benefit to the community.

In the education of youth for the business of life, it seems almost to be forgotten, that they are ever to assume the duties of *citizens*—duties of paramount importance, on the due performance of which, their individual happiness, as well as the happiness and prosperity of the nation, mainly depends.

The last annual report of the superintendent of common schools of the state of New York, contains the following just observations on this subject:

"On our common schools we must rely to prepare the great body of the people for maintaining inviolate the rights of freemen. If the political fabric cannot find in the public intelligence, a basis broad and firm enough to uphold it, it cannot long resist the shocks to which, through the collision of contending interests, it is continually exposed. Forty nine out of every fifty of our citizens, receive their education in the common schools. As they advance to manhood, they are, for the most part, devoted to manual employments. Looking to their own industry as their only resource, and to its fruits as the boundaries of their personal desires, the object nearest their hearts is to see their country prosperous, the laws administered with order and regularity, and the political importance, which the constitution has secured to them, maintained undiminished. The controversies to which conflicting interests give birth, are to be put at rest by their decisions. In the questions of policy which are presented to them, constitutional principles are frequently involved, and the relation they bear, and may in all future time bear to the government, is directly or indirectly affected. How important is it that their decisions should be as enlightened as they will be honest; that with every motive to be upright and conscientious in the exercise of their political rights, they should combine also the capacity to maintain them with independence and discretion! If they shall ever cease to bring to the settlement of these great questions a sound and enlightened discrimination, they cannot fail to become the dupes of artful leaders, and their country a

prey to internal discord. From the genius of our political institutions, popular education is our only security against present and future dangers. Ignorance is said to be the parent of vice. With us it would also be the parent of those fatal disorders in the body politic, which have their certain issue in anarchy."

In presenting this work to the public, the compiler intends to supply, in some measure, a deficiency that has too long existed in the course of education in this country. Several excellent treatises on the principles of government, and constitutional jurisprudence, have been published within a few years. But it is believed that of those which are intended as class books, none are well adapted to the condition of our common schools.

To be in the highest degree useful, a work of this character should be adapted to the state in which it is to be used. This work has accordingly been made to embrace the constitution of the state of New York, together with a portion of its jurisprudence.

But it is not for common schools exclusively, that this work is intended. It is believed that there are individuals in almost every family, who will find in it much valuable information to which they have not before had access.

Originality in a work of this kind is hardly to be expected. Whatever of merit, therefore, may be awarded to this unpretending volume, is chiefly due to other and abler authors. Among the works to which the compiler is indebted, he would particularly mention, Sullivan's "Political Class Book," Chipman's "Principles of Government," Duer's "Outlines of Constitutional Jurisprudence," and the invaluable "Commentaries" of Story and Kent.

With the hope that this treatise, notwithstanding its imperfections, will be found in some degree useful, it is respectfully offered to the patronage of a liberal community.

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ERRATA.—Page 34, 8th line from the top, for 'make,' read *laws*.
40, 16th line from the top, for 'Henry the
Seventh,' read *James the First*.
175, 14th line from the top, for 'amendable,' read
amenable.
176, 22d line for 'great,' read *greater*.
" 27th line for 'this,' read *the*.
215, 22d line, read, address *to the governor*.
279, 6th line, for 'by right,' read *but a* right.
The errors above noted, occur in a part of the edition only.

N. B.—As this volume has been considerably extended beyond the number of pages originally contemplated, the Appendix, which was designed to be added, has been omitted.

PART FIRST.

OF THE PRINCIPLES OF GOVERNMENT.

CHAPTER I.

Of Man as fitted for Society, and for Civil Government and Laws.

IT has been maintained that the savage state is the only natural state of man, and that he can, in no other state, be perfectly virtuous and happy; and that civil government has a tendency to encourage vice, and becomes the cause of the miseries that exist in society, instead of remedying these evils. Others maintain that the necessity of laws arises from the wicked disposition of man; that they are necessary only to restrain the evil and violent passions; and to prevent the miseries which men are prone to inflict on each other: consequently, were all men truly virtuous and purely benevolent, laws for their government would be wholly unnecessary. There are others who hold that man was originally designed for civil government, and that he is under a necessity of

What is said of man in the savage state; and of the tendency of civil government? From what do others say arises the necessity of laws? What other opinion is held on this subject? To

nature to adopt it; but who hold, at the same time, that, on entering into civil society, he necessarily gives up a portion of his natural liberty, of his natural rights. It seems to follow, as the conclusion of this theory, that man is but partially fitted for civil society. But a theory somewhat different from either of these, has been adopted, to wit: that man is fitted for society by the constitution and laws of his nature; and that, for the secure enjoyment of both natural and civil rights, government and laws are necessary to social beings, with whatever virtues they may be endued.

But whatever difference of opinion may prevail in regard to the correctness of these several theories, few, it is presumed, will doubt, that man is fitted by nature for society and civil government; and that, in his present state, civil government and laws are necessary for the regulation of his conduct.

“Man is so formed by nature,” says Vattel, “that he cannot suffer by himself, and he necessarily stands in need of the assistance and support of creatures like himself, to preserve and perfect his own being, and to enjoy the life of a rational animal. This is sufficiently proved by experience. We have instances of men nourished among the bears, who had neither a language, nor the use of reason, and, like the beasts, had only the sensual powers. We see moreover that nature has refused men the natural strength and arms with which she has furnished other animals, giving them, instead of these advantages, those of reason and speech, or at least of acquiring them by a commerce with their fellow beings. Speech enables them to converse with each other, and to extend

what conclusion does this theory lead? But what theory, different from all these, has been adopted?

How is man formed by nature? How is this proved? What advantage does man derive from the power of speech? In what

and raise to perfection their reason and knowledge; and, being thus rendered intelligent, they find a thousand methods of preserving themselves, and supplying their wants. Every one also becomes sensible that he can neither live happily nor improve himself without the assistance and conversation of others. Since, then, nature has thus formed mankind, it is a manifest proof that she has designed they should converse with one another, and grant to each their mutual assistance." That man is by nature designed for society may be inferred also from his appetite to associate with his fellow man. The appetite or propensity for this association, and the pleasure derived from it, are common to all mankind, and evidently originate in their nature.

Man seems equally fitted for civil government. He has been endowed with high moral and intellectual faculties. He has the power to discern his own wants and the wants of others. He has a moral perception of what is right and what is wrong, and a sense of his obligation to do what is right and to forbear to do what is wrong. His reason enables him to understand the meaning of laws, and to discover what laws are necessary to regulate human actions. Patriotism, or love of country, prevails universally among mankind; and this national attachment leads men to seek and to promote the welfare of the community to which they belong, and contributes much to the fitting of them for civil government.

But with all his adaptation to society, and his capacities for civil government, man, being imperfect, will be guilty

does man's appetite for society originate; and what does it prove?

With what faculties and powers has man been endued that qualify him for civil government? Of what use are his reason and judgment? To what does patriotism lead men; and to what does it contribute? For what purposes are laws necessary?

of deviating from the rule of rectitude, and of infringing the rights of others. Whether this transgression be the consequence of ignorance, weakness in judging, or inattention in examining; or whether it result from a disposition habitually vicious; laws are necessary to regulate the conduct of men toward each other, and to secure to the members of a community the enjoyment of their rights. Without laws, there would be no security to person or property; the evil passions of men would prompt them to commit all manner of wrongs against each other, and render society, (if society can be said to exist without law,) a scene of violence and confusion.

CHAPTER II.

Of Rights and Liberty.—Natural, Civil and Political Rights and Liberty—Right of Opinion.

THE object of civil institutions is, or ought to be, the security of those personal rights, in the full and free enjoyment of which true liberty consists.

The word *right*, when applied to action, signifies what is fit and proper to be done, as opposed to wrong. But as a substantive, in the sense in which it is here used, it means the just title or claim which a person has to any thing; and it signifies that the thing belongs to him who is said to have the right. Thus it is declared in the American Declaration of Independence: "that all men

What is the object of all civil institutions? Define the word *right*. In what sense is it here understood? How are men said to be created; and with what unalienable rights are they endowed? How

are endowed with certain unalienable *rights*; that among these are life, liberty, and the pursuit of happiness; that to secure these *rights*, governments are instituted among men, deriving their just powers from the consent of the governed; and that, whenever any form of government becomes destructive of these ends, it is the *right* of the people to alter or abolish it."

The rights of mankind are denominated, first, *natural rights*; secondly, *political rights*; and thirdly, *civil rights*.

Natural rights are said to consist in the rights of personal liberty, of personal security, and of private property. These rights originate in the *laws of our nature*; and they cannot be forfeited but by the commission of some crime against the good and wholesome laws of the community.

Political and civil rights are generally considered and treated as belonging to the same class of rights; although each is clearly a distinct class. *Political rights* are the rights and powers granted to the people by the *constitution*, or *fundamental law* of the state. The right and power of making laws, the power of appointing, electing and controlling the officers of a government, and the right of altering and amending the constitution itself, are rights conferred by the constitution, and are therefore properly denominated *political rights*.

Civil rights are those that are guarantied to citizens

are these rights secured? From what source are the just powers of government derived?

What are the different classes of human rights denominated?

In what do *natural rights* consist; and in what do they originate? How only can they be forfeited?

Is there any difference between *political* and *civil rights*? How are political rights conferred? What are some of these rights?

What are civil rights? Why are these several rights denomi-

by civil institutions, and are contained in the class of natural rights—the right of personal liberty, of personal security, and of private property, together with the numerous rights derived from these. They are called natural rights, as they have their foundation in the laws of social nature; but they are denominated civil rights, because, for their secure enjoyment, they depend on the social or civil compact. By *civil compact* is understood that agreement or contract by the terms of which the members of a community are governed. The right to obtain legal redress for an injury done by another, or the right secured to an individual by the laws of the community to which he belongs, of enjoying the free use of his property, are therefore termed *civil rights*.

Liberty, applied to man, consists in the free exercise and enjoyment of his rights; and this liberty is either natural, civil, or political, according as reference is had to one or the other of these rights. Herein consists the difference between *liberty* and *right*: the latter signifying the just *claim* or *title* which a person has to any thing; the former, the *exercise* and *enjoyment* of his rights.

Natural liberty consists in a power and freedom of acting as one thinks fit, without any constraint or control, unless by the laws of his social nature. In other words, moral or natural liberty is a permission which nature gives to all mankind of disposing of their persons and property in such a manner as they shall judge most consonant with their own happiness; on condition that they act according to the laws of nature; that they do not in-

nated *civil rights*? What is understood by *civil compact*?

In what does *liberty* consist; and what are the different kinds of liberty here mentioned? What is the difference between a person's rights and his liberty?

In what does *natural liberty* consist? On what condition is this right granted; and in what manner must it be exercised?

any way abuse it to the prejudice of other men; and that they observe towards others all the moral duties enjoined by those laws.

Civil liberty consists in the secure exercise and enjoyment of all civil rights. It is that liberty which a man enjoys as a member of society, and is said to be no other than natural liberty just so far restrained as is necessary and expedient for the general advantage of the public. It can be enjoyed only under an upright and impartial administration of just, equal and expedient laws. The opinion, therefore, which some entertain would seem to be erroneous: that, in becoming subject to the restraints of law, man gives up a portion of his natural liberty.

Political liberty consists in the exercise and enjoyment of political rights, rights reserved to the people by the constitution, the fundamental laws of a state, in such manner and under such regulations only as are provided and authorized by these laws. The important end of political liberty, and for which alone it is valuable, is to secure the permanent enjoyment of civil liberty. It is the only security against political slavery.

Besides the rights above mentioned, is the *right of opinion*. The right of private opinion, or of private judgment, is a right that cannot be interfered with without a violation of the law of nature. The exercise and enjoyment of this consist in the liberty of a man to act agreeably to his religious opinion; and in the liberty of political opinion, the liberty of every person to express

In what does *civil liberty* consist? Under what circumstances only can civil liberty be enjoyed? Can a man be under the restraint of laws and yet enjoy this liberty?

In what does *political liberty* consist? What is the object of political liberty?

What is meant by the *right of opinion*? In what do the exercise and enjoyment of this right consist? To what extent is this

and publish his opinions on all subjects relative to the government. The liberty of speech and of the press, and the liberty of conscience, are enjoyed in the United States to their full extent. But this liberty does not imply that a person may so *act* as to violate the rights of others, or to disturb the good order of society.

CHAPTER III.

*Of Laws.—The Law of Nature—Law of Revelation—
Law of Nations—Municipal Law.*

LAW, in its most general and comprehensive sense, signifies a rule of action; and is applied indiscriminately to all kinds of action, whether animate or inanimate, rational or irrational. Thus we say, the laws of motion, of gravitation, of optics, of mechanics, as well as the laws of nature and of nations. And it is a rule prescribed by some superior, and which the inferior is bound to obey.

Law, in a more confined sense, denotes the rules of human action or conduct: that is, the precepts by which man, the noblest of all sublunary beings, a creature endowed with both reason and free will, is commanded to make use of these faculties in the general regulation of his behavior.

Man, considered as a creature, must necessarily be

right enjoyed in the United States? Does freedom of opinion imply that a person may in all cases *act* as he pleases?

What is law in its most general and comprehensive sense; and to what object is it applied? In a more confined sense what does it denote?

To what laws must man as a creature necessarily be subject?

subject to the laws of his Creator; for he is entirely a dependent being. A being independent of any other, has no rule to observe but such as he prescribes to himself: but a state of dependence obliges the inferior to take the will of him on whom he depends as the rule of his conduct, in all those points in which his dependence consists. Consequently, as man is dependent on his Maker for every thing, he should in all points conform to his Maker's will. This will of his Maker is called the *law of nature*. For God, when he created man, and endued him with free will, laid down certain immutable laws of human nature by which that free will is in some degree regulated and restrained, and gave him also the faculty of reason to discover the meaning of these laws. These laws are founded in those relations of justice that existed in the nature of things, antecedent to any positive command or precept. These are the eternal and unchangeable laws of good and evil to which the Creator himself conforms; and which he has enabled human reason to discover, so far as they are necessary for the conduct of human actions. Among the principles of these laws are the following: That we should live honestly, should hurt nobody, and should render to every one his due. And in order to prompt men to pursue the rule of right, the Creator has been pleased to make their happiness depend on the practice of this rule. This law of nature is superior to all other laws. It is binding in all countries, and at all

By what rule of action is an independent being governed? Man being dependent on his Maker for every thing, what is his duty? What is this will of his Creator called? By what is the free will of man regulated and restrained? By whom are these laws laid down? On what are they founded? Does not the Creator in his dispensations conform to these eternal and unchangeable laws? How far has he enabled human reason to discover these laws? What has God done to prompt man to pursue the rule of right? In what places, and when, is the law of nature binding? Are

times; and no human laws which are contrary to it, are of any validity. If man's reason were always, as before his transgression, clear and perfect, and unclouded by prejudice, he would need no other guide: but his moral faculties having been impaired, Divine Providence, in compassion to the frailty, imperfection and blindness of human reason, has been pleased to discover and enforce his laws by immediate and direct revelation. The doctrines thus delivered are called the *revealed* or *divine law*, and are found in the Holy Scriptures. These precepts agree with the original law of nature. Both originate from the same source, are of equal obligation, and tend alike to promote the good of mankind.

Upon these two foundations, the law of nature and the law of revelation, all human laws depend: that is to say, no human laws should be suffered to contradict these. And if any human law should enjoin us to do any thing that is forbidden by the natural or divine law, we are bound to transgress that human law. But in regard to matters which are neither commanded nor forbidden by those superior laws, a human legislature may make an action unlawful which before was not so. For instance, if the congress of the United States should pass a law, prohibiting the importation of a certain commodity from a foreign country, the importation of such commodity, would be an unlawful act, although in itself not unlawful, being neither commanded nor forbidden by a superior law.

human laws valid if they are contrary to the law of nature ?

Does man in his present state need any other guide than reason ? By what have the moral faculties of man been impaired and corrupted ? How has Divine Providence aided human reason ? What are the doctrines of revelation called ; and where are they found ? Do these precepts agree with the original law of nature ? To what do they tend ?

Upon what do human laws depend ? If human laws contradict the laws of nature and of revelation, which are we bound to obey ?

As it is impossible for the whole race of mankind to be united in one great society, they must necessarily divide into many, and form separate states and nations, entirely independent of each other, and yet liable to mutual intercourse. Hence arises another kind of law, called the *law of nations*. But as no state will acknowledge another to be its superior, this law seems to depend upon the rules of the law of nature applied to nations as moral persons, upon mutual treaties, leagues and agreements, and upon usages and customs. So far as the law of nations is founded on the principles of natural law, it is equally binding in every age, and upon all mankind.

Municipal or *civil law*, as defined by Blackstone, is a rule by which particular districts, communities or nations are governed; a rule of civil conduct prescribed by the supreme power of a state, commanding what is right, and prohibiting what is wrong. [*Municipal*, derived from a Latin word, had reference to the particular customs of one single *municipium* or free town; yet it is with sufficient propriety applied to a state or nation which is governed by the same laws and customs.] But the definition above given by the celebrated English commentator is not strictly correct when applied to municipal law in a free government, where absolute and unlimited power is not committed to any one of its organs. A discriminating American author gives the following as a more accurate definition: "Municipal law is a rule of civil conduct prescribed by a competent authority in the state, enjoining what ought to be done, and prohibiting what ought not to be done." And Chancellor Kent, in his commentaries on American Law, observes: "The principle in the English

From what arises the law of nations? On what is the law of nations founded? How far is it binding in every age, and upon all mankind?

What is municipal or civil law? Define the word *municipal*.

government, that the parliament is omnipotent, does not prevail in the United States; though, if there be no constitutional objection to a statute, it is with us as absolute and uncontrollable as laws flowing from the sovereign power under any other form of government. But in this, and in all other countries, where there is a written constitution designating the powers and duties of the legislative, as well as of the other departments of the government, an act of the legislature may be void as being against the constitution."

CHAPTER IV.

Of the different Forms of Government.

GOVERNMENT, in a political sense, is that form of fundamental rules and principles by which a state or nation is governed, or by which the members of a body politic are to regulate their social actions. By government is also meant the administration of public affairs, according to established constitutions, laws and usages.

The object of government is to secure to the members of a community the enjoyment of their natural rights. As every government is designed to promote the happiness and well being of its citizens, that government must be the best which conduces most to this end. Governments, good or bad, have existed in all ages.

What is *government*; and what are the objects of a good government? How may we judge what form of government is best?

The most common forms of government are the following:

1. A *despotism*; in which arbitrary power is exercised by *one man*. *Despot* is a word of Greek origin, signifying *master*, or *lord*. At a later period, it became an honorary title, given by the Greek emperors to their sons and sons-in-law, when governors of provinces. At present it means an absolute ruler, as the emperor of Russia. In a narrower sense, it conveys the idea of tyranny. *Tyrant*, also, is of Greek origin, and has nearly the same meaning as *despot*, signifying *king*, or absolute ruler. Neither of these words had originally the bad signification which is now attached to them. But as the possessor of uncontrolled power usually abuses it, they came at length to signify abuser of power. Turkey and Russia are despotic in a high degree. In Turkey the sultan has unlimited control over the property and lives of his subjects, especially the highest officers of state, whom he can remove or put to death at his will. He makes laws without being himself subject to them. He is restrained only by the Koran and the fear of rebellion. The *Koran* is the bible of the Mahometans, containing the pretended revelations of their prophet. The people have no rights. Such is their ignorance, that they do not seem to know that they could be in a better condition.

2. An *aristocracy*. This is a form of government in which the supreme power is exercised by privileged

What is a *despotism*? Give the original signification of the word *despot*. Its present. Define the word *tyrant*. Do men who possess uncontrolled power abuse it? What governments are here mentioned as despotic? What is the absolute ruler in Turkey called; and what power does he possess? Who makes the laws in that country? Is he himself subject to them? Is he under any kind of restraint? What is the *Koran*; and what does it contain? Have the people any rights? What is their condition?

classes, or in which they are allowed a disproportionate share. When tyranny is in the hands of a few, it is called an *oligarchy*, which is by some thought to be the worst of all governments.

3. A *monarchy*; which is a state or government in which the supreme power is lodged in the hands of a single person. Such a state is usually called a kingdom, or an empire. This name is generally given to a large state only. But it is sometimes applied to a state or kingdom in which the supreme magistrate is limited by a constitution, or laws. Hence we speak of *despotic* or *absolute monarchies*, and of *limited* or *mixed monarchies*. Of the latter class are Great Britain and France. In Great Britain, the power is lodged in the hands of a king, nobles, and a body representing in some degree the rights and interests of the great body of the people. The nobility are persons who enjoy a rank above the common people. They claim the highest civil honors and privileges, often by no other right than the right of birth; and, together with the archbishops and bishops, they constitute the house of *lords*. The house of *commons*, the representative branch of the legislature, consists of the representatives of cities, boroughs and counties, and are chosen by men possessing the property or qualifications required by law. These two branches of the legislature are called the *parliament*. In France, the executive power belongs

What is an *aristocracy*? Who are meant by *privileged classes*? What is an *oligarchy*?

What is a *monarchy*? To what is the name of kingdom or empire given? To what kind of kingdom or state is it sometimes applied? Are all monarchies alike? Of which class of monarchies are Great Britain and France? In Great Britain, where is the power lodged? Who are the nobility? By what right do they claim their high civil honors and privileges?

How is the house of *lords* constituted? By what name is the representative branch of the legislature called? Of what does it

to the king. He is commander of the sea and land forces; he declares war, and makes all appointments. The legislative power rests in the king, the chamber of peers, and the chamber of deputies. The king proposes the laws. The peers are nominated by the king; and their dignity was formerly either granted for life, or made hereditary, at his pleasure. But since the revolution of 1830, the hereditary quality of the French peerage has been abolished. The deputies are elected by the electoral colleges; the ministers of state may be members of either chamber.

4. A *republic*, or *commonwealth*, the last form of government which shall be here noticed, is a state in which the sovereign power is lodged in representatives elected by the people. Such is the government of the United States. The democracies of Greece are often called republics. A *democracy*, however, is a government in which the people meet in one assembly, and enact and execute the laws. But this can be done only in a very small community. Our government is therefore a *representative republic*, because the people, instead of enacting laws in person, elect a small number to represent them. But as political power is retained in the hands of the people, our government may with some propriety be called a *democracy*.

From the description here given of a mixed monarchy

consist? What are these two branches acting together called? In France, what powers are exercised by the king? How is the legislative power distributed? How do laws originate? By whom are the peers nominated? What is said of their dignity formerly? What is *hereditary*? When was the French hereditary peerage abolished? How are the *deputies* elected?

What is a *republic* or *commonwealth*? What is a *democracy*? What is the government of the United States properly called? Why? In whose hands is political power retained?

and a representative republic, these two forms of government may appear in a considerable degree similar. But though the king may have no greater power in making laws than the president of the United States, he obtains his power by hereditary right, or right by birth, independent of the suffrages of the people, and often contrary to their wishes. So also with regard to the higher branch of the legislature: its members hold their offices, either by right of birth, or by appointment of the king. And although the lower branch is elective, such have been the qualifications required of the electors, as to throw the legislative power virtually into the hands of the more favored classes. In France, no person was allowed to vote unless he possessed property on which he paid 200 francs of direct taxes; and no person might be elected a representative, whose property was not subject to the payment of 500 francs of direct taxes. So that of a population of 32,000,000, there were less than 220,000 electors. In Great Britain, too, the land being owned by a few, and being cultivated by tenants, the number of freeholders is so small, that the election depended chiefly on the richest families. Besides the clergy, who, (in 1822,) possessed about six thousand estates, and the corporations, whose possessions might be reckoned at an equal number, there were in England but about 20,000 landholders, among a population of 13,000,000. The English law which gives to the eldest son all the real estate, is itself suffi-

How does a king obtain his power? How do the members of the higher branches of the legislature obtain theirs? Are not the members of the lower branch elected by the people? How was the elective franchise formerly restricted in France and England?—What was the number of landholders in Great Britain in 1822? What English law has tended to prevent the general distribution of landed property?

cient to keep together large masses of landed property. In 1786, there were 250,000 land proprietors. But this unjust distinction between the rich and poor has been in a great degree abolished in England. By an act of reform passed in 1832, the elective franchise was much extended ; so that it is at present enjoyed to nearly the same extent as it is in the United States. Such has been the progress of republican principles among the governments of Europe, as to cause, in many of them, important changes in favor of the rights of the people.

Some writers do not allow more than three regular forms of government : the first, when the sovereign power is lodged in an aggregate assembly, consisting of all the members of a community, which is called a *democracy* ; the second, when it is lodged in a council of select members, and then it is styled an *aristocracy* ; and third, when it is entrusted in the hands of a single person, and then it takes the name of a *monarchy*. All other kinds, they say, may be reduced to these three. It has been said, and perhaps with propriety, that a monarchy is the strongest form of government ; that an aristocracy has the most wisdom ; and a democracy the most virtue. But it is believed, that under the representative form of government, the people may enjoy a greater security of their civil liberties than they can have under any other form.

In limited or mixed monarchies there is usually a charter or constitution. A *constitution* is the fundamental law of a state, whether it be a written instrument of a

How was the elective franchise formerly restricted in England ?
To what extent is it at present enjoyed ?

To what three forms of government do some writers reduce all existing forms ? What has been said of the particular characteristics of a monarchy, an aristocracy, and a democracy ? Under what form of government may the people enjoy, in the greatest degree, the blessings of liberty ?

certain date, like that of the United States, or an aggregate of laws and usages which have been formed in the course of ages, like the English constitution. In France, it is called a *charter*. In Great Britain it is called a constitution; but it is not *written*.

The constitution of the United States was established by the people for their own regulation. It prescribes the duties and powers of officers who may be chosen to make and administer the general government. All laws enacted by the representatives of the people must be in conformity to the constitution, which is the foundation of such laws, or they are not binding upon the people. The constitution restrains our rulers, and secures to every citizen his rights. It is also essential in assigning to each branch of the government its power and limits. It is a *representative constitution*; and as it was formed and adopted by the people, they alone have the power to amend and alter it whenever it shall be found defective. This, however, can be done in such manner only as the constitution itself prescribes.

What is a constitution? What is said of the constitution of France? Of that of England? Of the constitution of the United States?

PART SECOND.

HISTORY OF THE COLONIES—AFTERWARDS INDEPENDENT STATES—FROM THEIR FIRST SETTLEMENT TO THE ADOPTION OF THE CONSTITUTION.

CHAPTER I.

Discovery of America and Settlement of the Colonies.

IN 1492, America was discovered by Christopher Columbus; an expedition having been fitted out for that purpose by the Spanish government, at his earnest solicitations. His discovery, however, was confined to the West Indies. The English were the first people that discovered the continent of America. This discovery was made in the year 1497, by Giovanni Cabot and his son Sebastian, who were commissioned by Henry the Seventh to sail in quest of new countries. Of the thirteen colonies whose delegates signed the Declaration of Independence, all but Georgia were settled in the seventeenth

When and by whom was America discovered? By whom was the expedition fitted out? To what islands was his discovery confined? What people first discovered the continent of America?—In what year? By whom? By what king were they commissioned?

century. [A *colony* is a settlement of persons gone from a country to inhabit some distant place, but who remain subject to the parent country.] With few exceptions, the colonists were Englishmen. The settlements were chiefly made at a time of great political excitement in the parent country, caused by encroachments of the crown upon the liberties of the people. Multitudes annually fled hither to find a refuge from oppression. The attempt on the part of the government, to enforce conformity to the established church, also brought many to this country, where they might enjoy freedom of conscience in matters of religion.

In the following sketch of the colonies, their political institutions previous to the adoption of the present constitution, will constitute the principal subject of notice, as being more compatible with the design of this work.

In 1606, two companies of merchants and others were incorporated under the names of the *London company*, and the *Plymouth company*, with the exclusive right of settling and trading within their respective limits. In 1607, the London company sent to Virginia a colony of 100 men, which, in consequence of war with the natives, scarcity of food, and disease, was reduced in a few months to 38. In October, 1609, the number had been increased by new colonists to 500; but a famine reduced them in about six months to 60. In 1613, the land which had before been held in common, was distributed to each individual.

The supreme government of the colonies, on their first establishment, was vested in a council which resided in

What is a *colony*? From what country, principally, were the colonies first settled? What were the causes that brought many to this country?

What companies were incorporated, in 1606? For what purpose? Relate the circumstances attending the first settlement in Virginia.

What is said of the *government* of the colonies on their first

England, and was nominated by the king; the subordinate jurisdiction, in a council which was to reside in America, also to be named by the king, and to act in conformity to his instructions. This charter being found inconvenient, a new one was granted by James, enlarging the colony, abolishing the council in Virginia, and vesting the government in one residing in London. In 1619, a great change was effected in the government of the colony. A general assembly, the first that was held in Virginia, was called by the governor. Eleven boroughs sent representatives to the convention. The supreme authority was divided between the governor, a council of state appointed by the company in England, and a general assembly elected by the people with the power to enact laws. In 1622, 347 men, women and children were massacred by the Indians; an Indian war followed, which reduced the number of settlements from eighty to eight. It may here be remarked that this disaster, and the many that followed, together with the settled hostility of the Indians which afterwards subsisted, were doubtless owing to the imprudence of the first settlers, rather than to the bad disposition of the natives. In 1624, the displeasure of James having been excited by the change that had been made in the government of the colony, the charter was declared forfeit, and the company dissolved. [A *charter* is a writing that grants privileges or rights to the subjects of a government.]

The Plymouth company, which had the exclusive right to trade and settle in North Virginia, did nothing effectual towards colonizing their territory. But in 1620, a number of Puritans embarked on a voyage with a

establishment? What changes took place? What befel the colonists in 1622? What was the probable cause of this event? What is said of the charter in 1624? What is a *charter*?

design of settlement on the Hudson. But by accident, as some suppose, they were landed on Cape Cod, within the limits of the Plymouth company: or, as others think, by the treachery of the Dutch, who themselves contemplated a settlement at that place, they were, against their intention, compelled to land on the shores of Cape Cod. *Puritans* was a name given to those who dissented from the established church, because they wished for a purer form of discipline and worship; as many of the ancient forms and ceremonies of the Romish church were still continued. Not having contemplated any plantation at this place, they had not obtained any charter from the company. Destitute of any right to the soil, and without any powers of government, on the 11th of November, before they landed, they drew up and signed a compact, in which, after acknowledging themselves to be subjects of the crown of England, they declared as follows: "Having undertaken, for the glory of God, and the advancement of the christian faith, and the honor of our king and country, a voyage to plant the first colony in the northern parts of Virginia, we do, by these presents solemnly and mutually, in the presence of God and of one another, covenant and combine ourselves together into a civil body politic, for our better ordering and preservation, and furtherance of the ends aforesaid; and by virtue hereof do enact, constitute and frame such just and equal laws, ordinances, acts, constitutions, and offices, from time to time, as shall be thought most meet and convenient for the general good of the colony; unto which we promise all due submission and obedience." This was the earliest

When and by whom was the first settlement made in the territory of the Plymouth company? How were they compelled to land at Cape Cod? Why were they called *Puritans*? Had they a charter from the company? What peculiar form of government did they adopt? By how many was this covenant signed? What was

American constitution, and was signed by 41 persons. It was in substance a pure democracy. The company, including women and children, amounted to 101. They proceeded to examine the coast, and finally determined to settle at a place which was called New Plymouth. Exhausted by the fatigues of the sea, and suffering from a want of suitable provisions and shelter, nearly one half of their number died within four months after their landing. They continued for ten years to hold their goods and property in common, when they obtained from the company a grant of the land which they had before held only by occupancy. At this time their number did not exceed three hundred. For many years they continued a mere voluntary association, governed by laws and magistrates formed and chosen by themselves, until they were incorporated with Massachusetts, in 1692.

In 1628, the Massachusetts colony was settled by a company incorporated by royal charter, the land having been previously purchased from the Plymouth company. In 1630, the government of the colony was transferred to Massachusetts, by a vote of the company. A few years later, the freemen adopted the plan of acting by delegates or representatives, and the charter of a trading company was converted into the constitution of a commonwealth. This unauthorized assumption of power, as well as their religious principles, rendered the Puritans obnoxious to the court party at home, and led the Plymouth company

the nature of this compact? Where did they finally determine to settle? What was the number of the colonists? How many died within the first four months? When did they obtain a grant of the land? How had they until then held their property? What was their present number? When were they incorporated with Massachusetts?

When and by whom was Massachusetts colony settled? What is said of its early government? What led the Plymouth company

to resign their charter to the king; and Massachusetts, like Virginia, was taken into royal hands. But such was the disturbed state of England, that these distant and insignificant colonies attracted little notice, and were left to grow up in habits of self-government, their numbers at the same time increasing by emigrations of such as were unsuccessful in the civil strifes at home. The persecuted Puritans fled to New England; the Catholics to Maryland; and the defeated royalists to Virginia.

New York was settled by the Dutch in 1614, and was held by them fifty years. It was, however, claimed by England, having been discovered by Henry Hudson, in 1608, who entered the bay of New York, and sailed up the river to latitude 43 degrees north. He did not attempt to land and form a settlement, contenting himself with claiming the country for his sovereign, Henry VII., by right of discovery. The English asserted that Hudson was employed by their government, and that he sold the country to the Dutch without authority. The Dutch maintained that he was in the service of the Dutch East India company at the time, and made their settlements without interruption for many years. In 1664, the colony was occupied by the English; and the territory now comprising New York, New Jersey, Pennsylvania, Delaware, and a part of Connecticut, was granted by Charles the Second to his brother, the Duke of York. New Jersey was settled by the Dutch, in 1624, and occupied

to resign their charter? In what habits did the colonies grow up? By whom were their numbers increased?

By whom was New York settled? How long was it held by the Dutch? Who claimed it? By whom was it discovered? On what ground did the Dutch and English respectively maintain their claims? When was the colony taken by the English? What territory was granted by Charles the Second to his brother? Give the dates of the settlement of the other colonies.

by the English in 1664. New Hampshire was first settled in 1623, at Dover and Portsmouth. Delaware was settled by the Dutch in 1627, and occupied by the English in 1664. Some Swedes settled here in 1638, but they were conquered by the Dutch, and most of them left the country. Maine was settled in 1630, and united with Massachusetts in 1677. Maryland was settled in 1633, and was the first colony that was governed directly as a province of the British empire. Its founder was Sir George Calvert, a Roman Catholic nobleman. He obtained a grant of the lands from Charles the First. New Haven, settled in 1637, was united with Connecticut in 1662. Connecticut was settled from Massachusetts in 1632.

CHAPTER II.

Forms of Government—Causes of the Revolution—Commencement of Hostilities.

Of the forms of government which prevailed in the colonies, there were three—the charter, the royal, and the proprietary governments.

1. The *charter* governments were those of New England. The people were entitled to the privileges of natural born subjects. They elected their own governors and legislative assemblies, and established courts of justice, and in some points even exceeded the powers conferred by the charters. The only limitation to their legislative

What forms of government prevailed in the colonies? In what section of the country were the *charter* governments? What privi-

power was, that their laws should not be contrary to those of England. The crown claimed the right to revoke these charters but the colonists maintained that they were solemn compacts, and that they could not be revoked without cause. The charters were sometimes declared forfeited or forcibly taken away and the disputes in which this question gave rise between the mother country and the charter governments were one of the causes of the Revolution.

2 The first governments were those of Virginia, New York and in a later period the Carolinas (1729) and the Jersey (1762). In these colonies the governor and council were appointed by the crown, and the representatives to the general assemblies were chosen by the colonists. The governor enjoyed the inscrutables of the crown and had a negative power on the proceedings of the legislature which was composed of the council and assembly. The judges and most of the officers were also appointed by the king, although in many cases paid by the colony. The arbitrary acts of the governors and the royal claim to an absolute veto on the acts of the legislatures caused much discontent as the exercise of these powers was virtually taking from the people the right to participate in the government.

3 The proprietary governments were those of Maryland, Pennsylvania and a few those of the Carolinas and the Jersey. These colonies were in the hands of proprietors or individuals to whom grants of land had been made by the crown with authority to establish civil

and other people under their governments. Where did the royal government prevail? How were the several branches of the government appointed? Why were these governments called royal? What caused discontent? What is meant by a negative power, or veto?

Where were the proprietary governments established? Why

FORMS OF GOVERNMENT.

governments and make laws, under certain restrictions in favor of the crown. The proprietors had power to repeal or negative the acts of the assemblies; and the exercise of this power became a source of continual quarrels between the people and the proprietors. In 1712 the people of Carolina took the government into their own hands. The governor, council and assembly, were all elected by the people. A declaration of independence was published, setting forth the causes of their renunciation of the former government, and signed by all the members of the new government. The oldest laws of the Virginia assembly, (1624,) comprise a declaration defining the power of the governor and the assembly, and asserting the privileges of the people in regard to taxation and personal services. At an early period in the existence of the New England colonies, (1643,) a confederation was formed between them for mutual offence and defence, leaving to each colony its own government, while the common officers of the confederacy were managed by a congress, consisting of two commissioners from each colony.

As early as the seventeenth century, the question of taxation became a subject of common interest in the colonies. The colonists disputed the right of parliament to tax the colonies. It was believed that the power of the British government extended only to the regulation of trade. Having surmounted the hardships and difficulties which attended their first establishment, and having made considerable advances in commerce and manufacture, the freedom of commerce which they had so long enjoyed

were they called *proprietary*? What power had the proprietors? What change took place in the government of Carolina in 1712? When did the question of taxation arise? What were the views of the colonists on this subject? How was their trade affected?

began to be interrupted. Their trade was restricted by the imposition of unjust taxes for the benefit of the mother country. By the act of 1651, none but British or colonial vessels were allowed to participate in the export and import trade. Another act, passed in 1660, enacted that certain articles should not be exported directly from the colonies to any foreign country; thus compelling the colonists to sell their produce in no other than British markets. It was next provided, (in 1663,) that they should buy such foreign articles as they needed entirely of the merchants and manufacturers of England. Duties were even imposed on certain colonial products transported from one colony to another. All attempts to manufacture such articles as the mother country could provide, were discouraged. In 1699, it was enacted, that no wool, yarn, or woollen manufactures should be exported from the American colonies; and, in 1750, every slitting or rolling mill, plating forge to work with a tilt hammer, or other machinery, was declared to be a common nuisance, which the governors were directed to cause to be abated. It is true, however, that many of these and similar acts of parliament were openly disobeyed or secretly evaded. Such were some of the features of the policy of the mother country, and the causes of irritation and discontent in the colonies. Many of the acts for regulating the trade of the colonies, had been unwillingly submitted to, as violations of their rights, or secretly evaded or openly disregarded, for many years, when measures were at length taken by the ministry, not only to enforce such acts, but to raise a revenue in America by internal taxation. In 1765, the obnoxious stamp act was passed, by

What acts were passed in 1651, 1663, and 1699? In 1750, what obnoxious declaration was made? How were many of these acts of parliament regarded? What did the ministry at length attempt to do? In 1765, what act was passed? What bill was brought in

which obligations in writing in daily use were to be null and void, unless they were executed on paper or parchment stamped with a specific duty. Newspapers, almanacs and pamphlets, printed in America, were to be made to contribute to the British treasury. About the same time, a bill was brought in authorizing the quartering of troops in the colonies. As might have been expected, the colonists were unwilling to submit to these acts and measures; and a general congress, the first of the kind, was held at New York, which adopted a declaration of rights and grievances, asserting taxation by themselves, and trial by jury, to be inherent rights of the British subjects in the colonies. The colonial assemblies adopted similar measures; meetings of the people were held; and the whole country was set in a flame. So violent was the opposition to the stamp act, that on the first of November, the day on which the act was to have taken effect, neither stamps nor officers were to be found! In this state of affairs, the act was repealed, (March, 1766.) At the same time, by a declaratory act, parliament asserted the right to bind the colonies in all cases whatsoever. In 1767, a bill was passed imposing a duty on glass, paper, paints and tea, imported into the colonies; and troops were quartered in Boston to enforce obedience. But combinations having been formed by the Americans against the importation of those articles, the act was repealed, March, 1770, the duty on tea alone being continued. Accordingly the colonists renounced the use of that article, or obtained it from foreign countries; in conse-

about the same time? In regard to these acts, what measures were adopted by the colonists? Was the stamp act ever enforced? On repealing this act, what right did the British parliament assert?—What bill passed in 1767? How did the Americans avoid the force of this act and cause it to be repealed? On what article was the duty continued? How did parliament hope to induce the

quence of which an act was passed in 1773, allowing a drawback on tea exported to America, for the purpose of rendering it cheaper, and inducing the Americans to submit to the small duty imposed upon it. Large shipments of tea were accordingly made; but in New York and Philadelphia the vessels were not allowed to land their cargoes; in Charleston it was stored, but not permitted to be offered for sale; and in Boston, after several unsuccessful attempts to prevent its being landed, a party of men, disguised as Indians, boarded the tea ships, and threw the tea overboard. This occurred December 16, 1773. In the following spring, by an act of parliament, called the Boston port bill, passed March 13, 1774, the port of Boston was closed, and the landing and shipping of goods were ordered to be discontinued. The custom house and trade, and the session of the court, were removed to Salem, and the charter altered, taking the whole executive government from the people, and vesting the appointment of all the important officers in the crown. It was also enacted, that a person indicted for a capital offence, committed in aiding the magistrates, might be sent to Great Britain for trial. In the same year, General Gage, the British commander-in-chief, and governor of Massachusetts, arrived in Boston to enforce the Bostonians into a compliance with the oppressive acts of parliament. In this crisis, the other colonies made common cause with Massachusetts. Deputies from most of the colonies met in congress at Philadelphia, September 5, 1774. Congress published a declaration of rights, protesting against the right of Great Britain to tax the colonies, or to interfere in their internal policy; with a

Americans to submit to the tax on tea? How were their plans defeated? What measures of retaliation were then taken by parliament? In this crisis, what did the colonies do? What declaration

statement of grievances, declaring the late acts of parliament to be violations of the rights of the colonists. They next proceeded to interrupt all commercial intercourse with Great Britain, pledging themselves not to import or use British goods, till the acts complained of should be repealed. Addresses, petitions and remonstrances were resorted to, but all to no effect. Instead of changing its policy, the British government imposed additional restrictions upon the trade of the colonies. Preparations now began to be made for resistance. Gunpowder was manufactured, the militia was trained, and military stores were collected. In April, 1775, a detachment of troops was sent to destroy the military stores collected at Concord. At Lexington, the militia were collected to oppose the incursion of the British forces. They were fired upon by the British troops, and eight men were killed. After having proceeded to Concord, and destroyed a few military stores, the troops returned, and were pursued by the Americans to Boston. Here was spilled the first blood in the war which severed the American colonies from Great Britain. In May, 1775, a second congress met from all the states, and immediately determined to organize an army; and Washington was appointed, June 15, commander-in-chief of the colonial forces. Congress authorized the emission of two millions of dollars in bills of credit, for the redemption of which the colonies were pledged; and an apportionment was made of the quota to be paid by each colony of the bills emitted. A general post office was established, and rules were framed for the

did congress publish? How did the British government treat the petitions and remonstrances of the Americans? What now began to take place? Where was the first blood spilled? What measures were adopted by the second congress? Who was appointed commander-in-chief of the American forces? What declaration

government of the army. Congress also published a solemn declaration of the causes of taking up arms, an address to the king, entreating a change of measures, and an address to the people of Great Britain, requesting their aid, and admonishing them of the threatening evils of a separation. At the next meeting of the same congress, rules were adopted for the regulation of the navy; a further emission of bills was authorized; and a treasury department was established. A general system of measures for resistance was now adopted throughout the colonies. General Washington had been at Cambridge at the head of an army, whose term of service expired with the year, 1775, without ammunition, and but imperfectly supplied with arms. By the beginning of March, 1776, 14,000 regular troops had been enlisted, and the British were obliged to evacuate Boston, March 17. On the 10th of June, a committee was appointed by congress to prepare a declaration, "that these colonies are, and of right ought to be, free and independent states." On the 11th of June, a committee was appointed to prepare the form of a confederation between the colonies. On the 2d day of July, congress adopted the resolution for independence; and on the 4th of July, they adopted the Declaration of Independence.

did congress publish? What was the state of the army in 1775? How many troops were added in March following?

CHAPTER III.

Declaration of Independence.

IN CONGRESS, JULY 4, 1776.

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident: that all men are created equal, that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such powers, as to them will seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed

When were the colonies declared independent? How many colonies were there at that time? Were the people justified in separating from the government of Great Britain?

What truths did they hold as self-evident? Under what circum-

for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused to assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation, till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them: He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature—a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the repository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

stances was it right to alter or abolish their form of government? What did they declare the history of the king of Great Britain to be? Who was then king of that country? Mention some of the

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise, the state remaining, in the mean time, exposed to all the dangers from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the condition of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers, to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

principal acts of oppression and injustice of the king of Great Britain.

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

For transporting us beyond seas to be tried for pretended offences:

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule in these colonies:

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our governments:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny, already begun with circumstances of cruelty and perfidy, scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections among us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms: our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them, from time to time, of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connexions and correspondence. They, too, have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind—enemies in war, in peace friends.

We, therefore, the representatives of the United States of America, in general congress assembled, appealing to the Supreme Judge of the world, for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and

Had the people of the colonies borne these oppressions a long time; or a short time only? By what means had they endeavored to obtain relief? How had their petitions been answered? What had been their conduct towards their British brethren? What did

declare, that these united colonies are, and of right ought to be, free and independent states; that they are absolved from all allegiance to the British crown, and that all political connexion between them and the state of Great Britain is, and ought to be, totally dissolved; and that, as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

JOHN HANCOCK.

NEW HAMPSHIRE.

Josiah Bartlett,
William Whipple,
Matthew Thornton.

NEW YORK.

William Floyd,
Philip Livingston,
Francis Lewis,
Lewis Morris.

MASSACHUSETTS BAY.

Samuel Adams,
John Adams,
Robert Treat Paine,
Elbridge Gerry.

NEW JERSEY.

Richard Stockton,
John Witherspoon,
Francis Hopkinson,
John Hart,
Abraham Clark.

RHODE ISLAND, &C.

Stephen Hopkins,
William Ellery.

PENNSYLVANIA.

Robert Morris,
Benjamin Rush,
Benjamin Franklin,
John Morton,
George Clymer,
James Smith,

CONNECTICUT.

Roger Sherman,
Samuel Huntington,
William Williams,
Oliver Wolcott.

they declare these colonies to be? For the support of this declaration, what did the signers of it pledge to each other? Which of them drew up this declaration? Give the names of the delegates from the several colonies.

George Taylor,
James Wilson,
George Ross.

Thomas Nelson, jr.
Francis Lightfoot Lee,
Carter Braxton.

DELAWARE.

Cæsar Rodney,
George Read,
Thomas M'Kean.

NORTH CAROLINA.

William Hooper,
Joseph Hewes,
John Penn.

MARYLAND.

Samuel Chase,
William Paca,
Thomas Stone,
Charles Carroll, of Carlton. Arthur Middleton.

SOUTH CAROLINA.

Edward Rutledge,
Thomas Heyward, jr.
Thomas Lynch, jr.

VIRGINIA.

George Wythe,
Richard Henry Lee,
Thomas Jefferson,
Benjamin Harrison,

GEORGIA.

Button Gwinnett,
Lyman Hall,
George Walton.

CHAPTER IV.

Sketch of the War—Adoption of the Articles of Confederation—Peace—State of the Country.

The American revolution may properly be said to have been complete on the adoption of the Declaration of Independence; but it still remained to be defended by arms. The military operations which closed the year, were, the defeat of the Americans on Long Island, August 27; the capture of New York by the British forces under lord Howe, September 15; the battle of White Plains, October 28; and the battle of Trenton, December 26, in which general Washington gained a victory over the British

army, capturing a large body of Hessians who were cantoned at Trenton; and soon after, January 3, 1777, the battle of Princeton, in which he gained another decisive victory over the British troops. The campaign of 1777 was more favorable to the Americans than that of the preceding year. Philadelphia had been taken by the British, September 27, and the Americans had been defeated on the Brandywine, September 11; also at Germantown, October 4; but the northern army were to a considerable degree successful. General Burgoyne, who commanded the British northern army, had taken possession of Ticonderoga, but, while pushing his successes southward, his progress was arrested at Saratoga, by the militia which had assembled there from various parts of New England for that purpose. These, with the regular troops, formed a respectable army, and was commanded by General Gates. After two severe actions, Burgoyne, finding himself enclosed with brave troops, surrendered to the Americans his entire army of seven thousand men, on the 17th of October. Thus was cut off the communication which had been attempted to be kept up between New York and Canada. When the intelligence of this event reached Europe, the French government entered into treaties of amity and commerce with the United States, thus recognizing their existence as an independent nation. When the British ministry were informed that this treaty was on foot, they despatched commissioners to America to effect a reconciliation. But their offers were not accepted. In the spring, a French fleet arrived, having on board about 5000 French troops, which had

What military operations closed the year 1776? What was the result of the campaign in 1777? What celebrated engagement took place at Saratoga during this year? What treaty was entered into with France? What did the British minister then attempt to do? How were their offers treated? Whence did America receive

been sent to assist America. In June, the British army left Philadelphia, with the intention of concentrating their forces at New York. While on their march, they were attacked by general Washington at Monmouth, on the 28th of June, and repulsed with great loss.

Congress had hitherto consisted of delegates from thirteen independent states, with little more authority than that of advising the states to adopt certain measures. Money could not be raised without the consent of the states; which were held together by the force of circumstances, congress having no power to enforce obedience. But during the heat of the revolutionary contest, men were little disposed to discuss or scrutinize such subjects; and the people confided in the wisdom of congress, and yielded to their authority. But in order to give stability to the union, and to define more precisely the nature of the federal compact, and the powers of congress, the articles of confederation were agreed on by congress, November 15, 1777, and submitted to the state legislatures for ratification. The articles bear date July 6, 1778: they were ratified the same year by all the states except Delaware and Maryland; by the former in 1779, and by the latter the first of March, 1781; being nearly five years after the first action on the subject by congress. By these articles, the exclusive control of our foreign relations, the right to declare war and make peace, and the right to make requisitions of men and money, were confided to congress. But the confederation was in many respects defective. It did not possess the power to carry its own constitutional

assistance? By whom were the British forces attacked at Monmouth? What led congress to propose a change in the government? When were the articles of confederation agreed on by congress? When were they ratified by the several states? What powers did they grant to congress? In what respect was the con-

measures into effect; for like all mere confederations, the decrees of the federal government operated on the states in their independent or sovereign capacity, and not upon individual citizens. But perhaps the greatest defect was the want of power to provide for defraying the expenses of the government. Congress had power "to ascertain the sums necessary to be raised for the service of the United States;" and to apportion the quota to each state: but as the power was reserved to the states to lay the taxes, and prescribe the time and manner of payment; it depended upon the good will of each of the legislatures of the thirteen independent states whether any measure of defence could be carried into operation. And, when danger from abroad was past, this confederacy was found to be incompetent to govern the country.

In the same year Georgia was invaded, and Savannah, its capital, was taken by the British; and in the year following, (1779,) the south became the principal theatre of war. Depredations to a great extent were committed on the coasts, and a partisan warfare was carried on in the interior, but with no decisive results. In 1780, May 12, Charleston was taken by the British; and on the 19th of October, 1781, the contest was ended by the surrender of Cornwallis, at Yorktown, to the combined American and French forces under Washington and Rochambeau. In the following year, a treaty was concluded between Holland and the United States; and after long protracted negotiations, a treaty of peace was signed September 23, 1783, by which Great Britain acknowledged the independence of the United States of America. Honorable as

federation defective? When was Savannah taken? What was the state of warfare in the south, in 1779? When was Charleston taken? What battle ended the contest between the two countries? When was the treaty with Holland concluded? When was the treaty of peace with Great Britain signed? What was the condi-

the war resulted to the Americans, it was attended with great sacrifices. Without arms or pecuniary resources, congress was obliged to have recourse to a paper medium. During the first five years of the war, three hundred millions of dollars, in bills of credit, had been emitted; and no provisions were made for redeeming them, the states neglecting, or but partially complying with, the requisitions of congress. In 1780, these bills had depreciated to such a degree as to cease to circulate; the treasury was empty, the army unpaid, without clothing, and sometimes without food. At this critical period, the French government made a grant of six millions of livres by way of subsidy, and a further sum by way of loan; and afterwards a loan of ten millions of livres was obtained from Holland. The whole amount of loans and grants made to the United States by France and Holland, was forty three millions of livres, or nearly ten millions of dollars. These supplies, with a new organization of the finance department, and the establishment of a national bank, at a later period, contributed to relieve the pressure. When peace took place, the public debt amounted to \$42,000,000, on which congress was unable to pay even the interest. The requisitions and regulations of that body were but little regarded by the states, and the country was fast approaching a state of anarchy.

A change in the government now became necessary as the only means likely to preserve the union; and, in 1787, a convention was held in the city of Philadelphia, to form a new and more perfect union; when the present constitution was adopted.

tion of the country soon after the close of the war? How was relief from pecuniary embarrassments obtained? What was the amount of the public debt when peace took place? To what state was the country tending?

CHAPTER V.

Constitution of the United States.

The Constitution framed for the United States of America, by a convention of deputies from the states of New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, at a session begun May 25, and ended September 17, 1787.

WE, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

SECTION 1. All legislative power herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

SECTION 2. The house of representatives shall be composed of members chosen every second year, by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of the state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within

the Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative ; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose *three* ; Massachusetts *eight* ; Rhode Island and Providence Plantations *one* ; Connecticut *five* ; New York *six* ; New Jersey *four* ; Pennsylvania *eight* ; Delaware *one* ; Maryland *six* ; Virginia *ten* ; North Carolina *five* ; South Carolina *five* ; Georgia *three*.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

SECTION 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years ; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year ; of the second class at the expiration of the fourth year ; and of the third class at the expiration of the sixth year, so that one-third may be chosen every year ; and if vacancies happen, by resigna-

tion, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments, until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president pro tempore, in the absence of the vice president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments: when sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

SECTION 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time, by law, make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year; and such meeting shall be on the first Monday in

December, unless they shall, by law, appoint a different day.

SECTION 5. Each house shall be the judge of the elections, returns and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such a manner, and under such penalties, as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECTION 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to or returning from the same: and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have

been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

SECTION 7. All bills for raising revenue shall originate in the house of representatives, but the senate may propose, or concur with, amendments, as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States; if he approve he shall sign it, but, if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two-thirds of that house, it shall become a law. But, in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return, in which case it shall not be a law.

Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States, and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be passed by two-thirds

of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION 8. Congress shall have power—

To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States:

To borrow money on the credit of the United States:

To regulate commerce with foreign nations and among the several states, and with the Indian tribes:

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States:

To coin money; to regulate the value thereof, and of foreign coin; and fix the standard of weights and measures:

To provide for the punishment of counterfeiting the securities and current coin of the United States:

To establish post offices and post roads:

To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

To constitute tribunals inferior to the supreme court:

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

To declare war; grant letters of marque and reprisal; and make rules concerning captures on land and water:

To raise and support armies: but no appropriation of money to that use shall be for a longer term than two years:

To provide and maintain a navy:

To make rules for the government and regulation of the land and naval forces:

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; reserving to the states, respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by congress:

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may by cession of particular states, and the acceptance of congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings: And,

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SECTION 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No capitation or other direct tax shall be laid, unless

in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any state. No preference shall be given, by any regulation of commerce or revenue, to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law: and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state.

SECTION 10. No state shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility.

No state shall, without the consent of congress, lay any imposts, or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the nett produce of all duties and imposts laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty on tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another

state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice president, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president; and if no person have a majority, then, from the five highest on the list, the said house shall, in like manner, choose the president. But, in choosing the president, the votes shall be taken by states, the representation from each state having one vote: a quorum for this purpose shall consist

of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors, shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice president.

The congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president: neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may, by law, provide for the case of removal, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president; and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive, within that period, any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:

“ I do solemnly swear (or affirm) that I will faithfully

execute the office of president of the United States; and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

SECTION 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two thirds of the senators present concur: and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers as they think proper in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SECTION 3. He shall from time to time give to the congress information of the state of the union; and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both houses, or either of them; and, in case of disagreement between them, with respect

to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

SECTION 4. The president, vice president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, ordain and establish. The judges both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECTION 2. The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party, to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction.

In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

SECTION 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason; but no attainer of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECTION 1. Full faith and credit shall be given, in each state, to the public acts, records, and judicial proceedings of every other state. And the congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SECTION 2. The citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crimes, who shall flee from justice and be found in

another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person, held to service or labor in one state under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.

SECTION 3. New states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, without the consent of the legislatures of the states concerned as well as of the congress.

The congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SECTION 4. The United States shall guaranty to every state in this union, a republican form of government; and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V.

The congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or on the application of the legislatures of two

thirds of the several states, shall call a convention for proposing amendments; which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the congress: Provided, that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article: and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States, under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound, by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Done in convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America the twelfth. In witness whereof we have subscribed our names.

GEORGE WASHINGTON,

President and delegate from Virginia.

NEW HAMPSHIRE.

John Langdon,
Nicholas Gilman.

James Wilson,
Thomas Mifflin,
George Clymer,
Jared Ingersoll,
Gouverneur Morris.

MASSACHUSETTS.

Nathaniel Gorham,
Rufus King.

DELAWARE.

George Read,
Gunning Bedford, jun.
John Dickinson,
Richard Bassett,
Jacob Broom.

CONNECTICUT.

Wm. Samuel Johnson,
Roger Sherman.

MARYLAND.

James M'Henry,
Daniel of St. Tho. Jenifer,
Daniel Carroll.

NEW YORK.

Alexander Hamilton.

VIRGINIA.

John Blair,
James Madison, jun.

NEW JERSEY.

William Livingston,
William Paterson,
David Brearly,
Jonathan Dayton.

NORTH CAROLINA.

William Blount,
Richard Dobbs Spaight,

PENNSYLVANIA.

Benjamin Franklin,
Robert Morris,
Thomas Fitzsimons,

Hugh Williamson.

Cha's Cotesworth Pinckney.

SOUTH CAROLINA.

John Rutledge,
Charles Pinckney,
Pierce Butler,

[Attest,]

GEORGIA.

William Few,
Abraham Baldwin.

WILLIAM JACKSON, Sec'y.

IN CONVENTION.

MONDAY, SEPTEMBER 17, 1787.

Resolved, That the preceding constitution be laid before the United States in congress assembled; and that it is the opinion of this convention that it should afterwards be submitted to a convention of delegates chosen in each state by the people thereof, under the recommendation of its legislature, for their assent and ratification; and that each convention assenting to, and ratifying the same, should give notice thereof to the United States in congress assembled.

Resolved, That it is the opinion of this convention, that, as soon as the conventions of nine states shall have ratified this constitution, the United States in congress assembled should fix on a day on which electors should be appointed by the states which shall have ratified the same, and a day on which electors should assemble to vote for the president, and the time and place for commencing proceedings under this constitution. That, after such publication, the electors should be appointed, and the senators and representatives elected. That the electors should meet on the day fixed for the election of the president, and should transmit their votes, certified, signed, sealed and directed, as the constitution requires, to the secretary of the United States, in congress assembled; that the senators and representatives should convene at the time

and place assigned; that the senators should appoint a president of the senate, for the sole purpose of receiving, opening and counting the votes for president; and that, after he shall be chosen, the congress, together with the president, should, without delay, proceed to execute this constitution.

By the unanimous order of the convention.

GEORGE WASHINGTON, *President.*

WILLIAM JACKSON, *Secretary.*

IN CONVENTION.

SEPTEMBER 17, 1787.

SIR: We have now the honor to submit to the consideration of the United States in congress assembled that constitution which has appeared to us the most advisable.

The friends of the country have long seen and desired that the power of making war, peace and treaties; that of levying money and regulating commerce, and the correspondent executive and judicial authorities, should be fully and effectually vested in the general government of the union; but the impropriety of delegating such extensive trusts to one body of men is evident; hence results the necessity of a different organization.

It is obviously impracticable in the federal government of these states, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw, with precision, the line between those rights which must be surrendered, and those which may be preserved; and, on the present occasion, this difficulty

was increased by a difference among the several states, as to their situation, extent, habits, and particular interests.

In all our deliberations on this subject, we kept steadily in our view that which appears to us the greatest interest of every true American—the consolidation of our union; in which is involved our prosperity, felicity, safety—perhaps our national existence. This important consideration seriously and deeply impressed our minds; and led each state in the convention to be less rigid on points of inferior magnitude than might have been otherwise expected; and thus the constitution which we now present is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable.

That it will meet the full and entire approbation of every state, is not perhaps to be expected; but each state will doubtless consider, that, had her interest been alone consulted, the consequences might have been particularly disagreeable or injurious to others. That it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our ardent wish. With great respect, we have the honor to be, sir, your excellency's most obedient and humble servants.

By the unanimous order of the convention:

GEORGE WASHINGTON, *President.*

HIS EXCELLENCY, *the President of Congress.*

The United States in Congress assembled:

FRIDAY, SEPTEMBER 28, 1787.

Present—New Hampshire, Massachusetts, Connecticut,
New York, New Jersey, Pennsylvania, Delaware,

Virginia, North Carolina, South Carolina, and Georgia; and from Maryland, Mr. Ross.

Congress having received the report of the convention, lately assembled in Philadelphia,

Resolved, unanimously, That the said report, with the resolutions and letter accompanying the same, be transmitted to the several legislatures, in order to submit to a convention of delegates chosen in each state by the people thereof, in conformity to the resolves of the convention, made and provided in that case.

CHARLES THOMPSON, *Secretary.*

AMENDMENTS.

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

ARTICLE V.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case, to be witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

ARTICLE VII.

In suits at common law, where the value in controversy

shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit, in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

ARTICLE XII.

The electors shall meet in their respective states, and vote, by ballot, for president and vice president, one of whom, at least, shall not be an inhabitant of the same state with themselves: they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president; and they shall make distinct lists of all persons voted for as president,

and of all persons voted for as vice president, and of the number of votes for each; which lists they shall sign and certify, and transmit, sealed, to the seat of government of the United States, directed to the president of the senate: the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But, in choosing the president, the votes shall be taken by states, the representation from each state having one vote: a quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other constitutional disability of the president.

The person having the greatest number of votes as vice president, shall be the vice president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the senate shall choose the vice president: a quorum for the purpose shall consist of two thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of president, shall be eligible to that of vice president of the United States.

PART THIRD.

OF THE GOVERNMENT OF THE UNITED STATES.

CHAPTER I.

Of the Nature and Objects of the Union.

As has before been observed, the confederation which was adopted by congress, in 1777, was a league or treaty of alliance between sovereign and independent states. Although it was declared to be a firm league of friendship, yet its binding force depended on the good faith only of each of the states, each party being the sole interpreter of the meaning of the contract, and the sole judge of its obligations: so that, in case of a violation of the contract by either of the parties, the ultimate remedy would have been a resort to the law of force, which is admitted by the law of nations to be the only final arbiter between sovereign states. The people were not citizens of the United States, but of their respective states; and they owed obedience to their respective state governments only.

Under the confederation the union was merely a federal, not a national, union; and the government was familiarly denominated, the federal government. [The

What was the character of the confederation? What does the word *federal* mean? Of what powers was the confederation desti-

word *federal* is derived from the Latin word *fædus*, signifying a league or covenant.] This government was destitute of executive and judicial powers, which are no less necessary in giving to a government a national character, than in forming an efficient government. It consisted only of a legislative power, the power of enacting laws: it wanted an executive power to *execute* the laws, and a judicial power to *judge* of, to expound, and to apply them. Congress had no power of raising a revenue or of collecting taxes. Congress had the power of making treaties, but not the power of fulfilling them—that rested with the several states. Congress had the power of declaring war, but had not the means of maintaining a war. It had the power merely to ascertain the sum required for the public service, and to apportion it according to a prescribed rule among the several states, with a request that they should raise and pay over to the general treasury the amount of their respective quotas; but as an independent sovereign, each might choose or refuse, and sometimes did refuse, to comply with the requisition. Congress was authorized to borrow money, and to emit bills of credit, but had not the command of funds to pay the one, or to redeem the other. Nothing but the pressure of war, and the patriotic zeal of the citizens in a common cause, in which so much was at stake, could keep the country united.

When peace was restored, the imperfections of this system of government were fully developed. It was these imperfections, and the evils resulting from them, that led to the formation and adoption of a new and more effective system of national government; the nature and powers of which are briefly expressed in the preamble:

“We, the *people* of these United States”—words con-

tute! By what means was the country kept united? What are

veying the idea of nationality—"in order to form a more perfect *union*"—intimating the former to have been but a partial and imperfect union—"to establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity"—objects to which the confederation had proved incompetent—"do ordain and establish this constitution for the United States of America."

But, although there can be little difference of opinion as to the *objects* of the constitution, the *nature* of this instrument is very differently interpreted by different individuals. It has been held to be, (1.) a contract between sovereign and independent states, to establish and maintain a government for the common good of the states; (2.) a contract between each state and all the other states, for the same purposes; each state reserving to itself the right of judging of the meaning of the contract, and whether it has been kept or broken; (3.) a contract between each citizen and all other citizens of the United States, to establish and maintain a government for the good of the whole, with limited and defined powers; providing that all powers not expressly given, nor necessarily flowing from those which are so given, are reserved to the states or to the people; and that the authority of interpreting the meaning of the contract, or of expounding the powers of the government, instead of belonging to the states, resides in the government itself.

Without undertaking to decide which of these opinions is correct, it may be proper to state, that, in this latter sense, the constitution is understood by the supreme court of the United States, which, in the last resort, is to ex-

the expressed objects of the constitution? What are the different interpretations of the *nature* of the union? Which of these opin-

pound the constitution, and the laws made under its authority. It is argued in favor of this opinion, that in adopting the constitution, the people of the several states, by their representatives in the state conventions, acted separately for themselves, not in the character of that sovereignty which they had entrusted to their respective state governments. And as the constitution was ratified by the people of each state, in concurrence with the people of all the states, it thus became a mutual compact between all, binding upon all, and upon their respective state governments.

A similar view of the subject was taken by the president of the United States, in his proclamation of December, 1832, occasioned by the hostile stand assumed by South Carolina against the general government; that state threatening to resist a law of congress which she deemed unconstitutional, and claiming for herself, as an independent state, the right to judge of the constitutionality of the law, as well as to secede from the union; a right which she claimed as being reserved to the states, and never surrendered to the general government. A few short extracts from that document are here given. The opinions they express were at that time approved by a large majority of the people of the union.

"The people of the United States formed the constitution, acting through the state legislatures in making the compact, to meet and discuss its provisions, and acting in separate conventions when they ratified those provisions; but the terms used in its construction, show it to be a government in which the people of all the states collectively are represented. We are *one people* in the choice of the president and vice president. Here the states have no

ions is sanctioned by the supreme court? In what manner was the constitution ratified by the people? Which of these opinions is sup-

other agency than to direct the mode in which the votes shall be given. The people, then, and not the states, are represented in the executive branch.

"The constitution of the United States, then, forms a *government*, not a league; and, whether it be formed by compact between the states, or in any other manner, its character is the same. It is a government in which all the people are represented, which operates directly on the people individually, not upon the states: they retained all the power they did not grant. But each state having expressly parted with so many powers as to constitute, jointly with the other states, a single nation, cannot from that period possess any right to secede, because such secession does not break a league, but destroys the unity of a nation."

The most able men have differed widely on this subject; and this diversity of opinion will probably continue to exist. These different views of the national compact are therefore given to lead the mind to inquire into the nature of the union, rather than to excite a spirit of controversy, which should always be discouraged. The people of the United States are indebted for the blessings enjoyed under their admirable system of government, to that spirit of compromise and mutual concession which prevailed so universally among the members of the body that framed the constitution. It is indeed remarkable, that an assembly of men from so wide a territory, entertaining views, and representing interests, so varied and opposite, should have agreed on a form of government which should receive the assent of so large a majority of the people. And

ported by the proclamation of 1832? How was that document regarded by the people? To what are the people of this country indebted for their system of government? What is the result of the experiment of this form of government?

it is more remarkable still, that any system, adopted under these circumstances, should have been found, on an experiment of almost half a century, so fully competent to all the purposes for which it was intended. May the same spirit of forbearance and good will which governed those who framed and adopted our invaluable constitution, be cherished by their descendants!

CHAPTER II.

Of the Legislative Power.—House of Representatives.

“**A**LL legislative powers granted in the constitution shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.”

The propriety of dividing the legislature into two co-ordinate branches, is obvious. It was intended, by this division, to guard against the evil consequences of hasty action by a single legislative body. The proceedings of some of the state legislatures, consisting of a single house, as well as the proceedings of congress under the confederation, had furnished examples of the ill effects of precipitate legislation. A hasty decision is not likely to be made, when a measure is liable to be arrested in its progress, and to be subjected to the critical revision of another body, in which it must pass through the same forms of deliberation before it can become a law. But there was another reason for this division of the national legislature.

Wherein is the legislative power vested? Why is the legislature divided into two branches? What principles are combined in the constitution?

In the new constitution were combined the national and federative principles. It was proper that, when a people are incorporated into one nation, every district or territorial subdivision should have a *proportional* share in the government, and it was equally proper that each of the several members of the confederacy should have, in some respect, an *equal* voice in the public councils.

Of the House of Representatives.

"The house of representatives shall be composed of members chosen every second year, by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature."

By limiting the term of office of a representative to two years, it was intended to secure a faithful and just representation of the interests of the people in the national councils. For, should a representative prove to be incompetent, or unfaithful to his trust, he may at the end of two years be removed, and his place filled by another. Besides, the hope of a re-election, should his conduct meet the approbation of his constituents, and the fear of being displaced, should he forfeit their confidence, have a tendency to ensure a faithful performance of his duties.—But if the elections were still more frequent, and the term of a representative were limited to a single year, his increased dependence on the popular favor, would probably diminish his regard for the general good.

Any person qualified to vote for a representative in the lowest or most numerous branch of the legislature of the state in which he resides, is entitled to vote for a repre-

How are the representatives chosen? What are the qualifications of electors? Why is the term of office of a representative

sentative in congress. But the qualifications of the electors, being established by the constitutions of the several states, are not uniform. In some states, the possession of a certain amount and description of property, is made a qualification. Colored persons are not allowed to vote in any state, excepting a few, in which the *property* qualification is required. In a majority of the states, however, all free white citizens, of the age of twenty one years or upwards, having resided for a certain period of time in the state, and paid taxes thereto, are entitled to vote for representatives in the most numerous branch of the state legislature.

"No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of the state in which he shall be chosen."

This provision, as to age and term of residence, is intended to prevent the election of men who have not had time to acquire that knowledge and experience which are essential to constitute a useful and efficient representative; and, unless he be an inhabitant of the state in which he is chosen, he cannot be presumed to understand the interests he is to represent.

* Representatives and direct taxes shall be apportioned among the several states which may be included within the union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made

fixed at two years? Are the qualifications of electors the same in all the states? What are the qualifications of a representative? Why are these deemed necessary? How are representatives and

within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative."

By the apportionment of representatives according to the provisions of the above clause, the free citizens of the slave-holding states have a greater number of representatives than an equal number of white persons in the other states. For instance, suppose a state to contain 500,000 free persons, and 300,000 slaves: the addition of three fifths, (180,000,) of the number of the slaves, to the number of free persons, makes 680,000; according to which number representatives are apportioned. But as representation and taxation go together, it was thought the free states had no just cause to complain of unequal representation, as the slave states would be liable to greater direct taxes, in proportion to their free population, than the free states. Direct national taxes, however, have seldom been laid, and probably they will not again be resorted to.

The present number of representatives is 240; which are apportioned according to the census of 1830. [Census was used among the Romans to signify the valuation of a man's estate, and the registering of himself, his age, his family and his servants. As used in the United States, it usually means only the enumeration of the people.]

The present *ratio* of representation is one representative for every 47,700 inhabitants: giving to Maine 8; New Hampshire 5; Vermont 5; Massachusetts 12; Rhode Island 2; Connecticut 6; New York 40; New Jersey 6;

taxes apportioned? How often is the census taken? What is the ratio of representation? What is the present number of representatives? To what number are the states severally entitled? How

Pennsylvania 28; Delaware 1; Maryland 8; Virginia 21; North Carolina 13; South Carolina 9 Georgia 9; Alabama 5; Mississippi 2; Louisiana 3; Tennessee 13; Kentucky 13; Ohio 19; Indiana 7; Illinois 3; Missouri 2. By an act of congress, every territory belonging to the United States, in which a government is established, has the right of sending a delegate to congress. Such delegate is entitled to a seat, with the right of debating, but not of voting.

“When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

“The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.”

CHAPTER III.

Of the Senate of the United States.

“The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.”

Our government, as has been remarked, partakes of the national and federative character, combining the principles of *proportional* and *equal* representation. The house of representatives is constituted upon the former principle,

are the territories represented? How are contingent vacancies filled? Why is the power of impeachment given to the house?

How is the senate composed? What is the usual mode of choos-

the number of its members from each state being *in proportion* to its population; while in the senate each state is *equally* represented. Besides the reasons stated in a preceding section, for instituting a senate, it is said to be the result of a compromise between the large and the small states; the latter consenting to be represented in one branch of the legislature, in proportion to the number of inhabitants in each, on condition of being allowed an equal representation in the other branch.

The usual mode of choosing senators is by *joint* vote: that is, the members of both branches of the state legislature meet together, and vote numerically. Another mode is by a *concurrent* vote, each house voting separately, and a concurrence in its choice being required by the other house. But the latter mode is not common. In cases of disagreement between the two houses, the election of senators by a concurrent vote is often attended with great difficulty; for so long as each house adheres to its decision, no election can be effected. As the constitution does not prescribe the manner in which the appointment shall be made, there is much uncertainty as to its true construction in this particular.

Senators are elected for six years. Political factions and popular excitements will arise in every community; and their tendency is to produce fluctuation and instability in the public councils. Sudden changes in public feeling, are usually followed by corresponding changes in legislative bodies of short duration. As much of the party feeling that prevails among the electors, is often carried by the representative into the legislative hall, frequent alterations of the laws are to be expected; and these changes are sometimes attended with great mischiefs to the community. It was deemed requisite, therefore, that a

ing senators? Why are senators elected for so long a term as six

body resting on a more durable basis, should be placed as a check upon the more popular branch of the legislature. A longer term of office was required, as the means most likely to give independence and stability to the senate.

“Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year; so that one third may be chosen every second year.”

As the provision of the above clause for the classification of senators was necessary only at the first organization of the senate, it is now a matter of history rather than of law.

The division and classification of the senate, by which the seats of one third of its members are vacated every second year, are calculated both to secure stability in the administration of the government, and to retain a large portion of experienced members acquainted with the general principles of national policy, and the forms and course of business.

“If vacancies happen, by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments, until the next meeting of the legislature, which shall then fill such vacancies.”

The executive of a state may fill a vacancy that happens during the recess of the legislature of any state, but he cannot make the appointment constitutionally until the

years? How is the senate divided? How are contingent vacan

vacancy shall have actually occurred. So it was decided by the senate, in 1825. Mr. Lanman was a senator of the United States from the state of Connecticut. His term of service expired on the third of March. The governor of that state, having been previously notified by the president of the United States, that the senate would be convened on the fourth of March, accordingly made the appointment in February, the legislature not being in session. Upon these facts, the question was raised as to the constitutionality of the appointment, and the senate decided, 23 to 18, that, as the appointment had been made before the vacancy had occurred, Mr. Lanman was not entitled to a seat.

"No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen."

The superior weight and delicacy of the trusts confided to the senate, seemed to require greater age, and longer citizenship, as qualifications for a senator than for a representative. Men elected to so responsible an office, should be of sufficient age to have acquired a thorough knowledge of the interests of the nation; and a period of citizenship is required sufficient to form an attachment to the principles of our government.

"The senate shall choose their other officers, and also a president pro tempore, in the absence of the vice president, or when he shall exercise the office of president of the United States."

It is the duty of the president of the senate, and of the speaker of the house of representatives, to preside over,

cies filled? What are the qualifications of a senator? Why are greater age and longer residence required for a senator than for a

and to conduct, the proceedings and deliberations of their respective houses. The other officers are the same in both houses, being 1st, A chaplain, whose salary is five hundred dollars a year. 2d, The secretary of the senate and clerk of the house of representatives, each of whom is required to take an oath or affirmation to support the constitution of the United States, and another faithfully to discharge the duties of his office to the best of his knowledge and ability. They are required to give bonds, in the penal sum of twenty thousand dollars, for the faithful application of all the funds of their respective houses that shall come into their hands; which must be deposited in one of the banks in the District of Columbia, and may be paid out only by a draft on the bank in which the money is deposited. It is also their duty to furnish their respective houses with the necessary stationary; which is done by advertising, after the adjournment of each congress, in two newspapers printed in the District of Columbia, for proposals for supplying the succeeding congress with stationary. The proposal of the lowest bidder is accepted, who is required to give security for the fulfilment of his contract. And the said secretary and clerk are required to lay before the two houses, at the commencement of each session, a detailed statement of the items of the expenditure, and manner in which the funds of the respective houses have been applied. They receive for their compensation three thousand dollars a year, each; their principal clerks, eighteen hundred dollars; engrossing clerks, fifteen hundred dollars each. 3d, The librarian of the library of congress, whose salary is fifteen hundred dollars. 4th, 5th, The sergeant-at-arms and doorkeeper of each house, who receive fifteen hundred dollars each. 6th,

representative? Who presides in the senate? What are the officer of congress? Why has the senate the power to try impeach-

an assistant doorkeeper of each house, who is paid fourteen hundred and fifty dollars a year.

"The senate shall have the sole power to try impeachments: when sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two thirds of the members present."

A provision in the constitution for trial by impeachment was rendered necessary for the punishment of offences that could not be tried before ordinary courts. These offences are such as are committed by persons in public offices, and consist in misconduct and mal-administration. Should a magistrate receive money for giving an erroneous decision, he would be liable to impeachment. So also the president, or other public officer, would, for misconduct, be subject to impeachment. The first proceeding in a trial of this kind, is a complaint to the house of representatives. A committee is then appointed to investigate the matter; and if the charge is well founded, a written accusation is prepared and presented to the senate, with a request to proceed to trial. The house chooses a number of its members to conduct the trial on the part of the house. The president of the senate presides when present, except when the president is tried. The same rules are observed in courts of impeachment, as in courts of common law. It has been decided that a member of congress is not a civil officer within the meaning of the constitution, and therefore not liable to impeachment. As the power of originating the inquiry, of drawing up and presenting articles of impeachment, and of

ments? Why is the trial by impeachment necessary? What is the mode of proceeding in a trial of this kind? How far does judgment extend in cases of impeachment?

conducting the prosecution, is more properly given to the members of the house, because they immediately represent the people; so the members of the senate are more fit to sit as *judges* on a trial of impeachment, because they are further removed from the people, and are presumed to be more free from party influence.

CHAPTER IV.

Of the Senate and House of Representatives.

“THE congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall, by law, appoint a different day.”

In pursuance of the power conferred in this clause, congress has provided, that when, from the prevalence of contagious sickness, or from other circumstances, it would be dangerous to the health of the members to meet at the place to which congress shall stand adjourned, the president of the United States may, by proclamation, convene congress at such other place as he may judge proper.

“Each house shall be the judge of the elections, returns and qualifications, of its own members.”

By the power here granted to each house of congress to judge of the elections, returns and qualifications of its members, it was intended to preserve a pure representation. It often happens that, in consequence of some alleged irregularity or unfairness in the election or return of a

In what case, and how, may the regular place of the meeting of congress be changed? How are the elections, returns and qualifi-

member, his seat is claimed by the opposing candidate. In such case, the house institutes an investigation, and decides which of the candidates is entitled to the seat.

"A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide."

[*Quorum* means such a number of any officers as is sufficient to transact business. Thus the senate consists of 48 members, 25 of whom, a *quorum*, may act.]

"Each house may determine the rules of its proceedings."

The rules of proceeding in both houses are substantially the same. Soon after the meeting of congress, *standing committees* are appointed for the session, upon all subjects which usually receive the action of congress. Committees are also appointed from time to time upon special subjects as they arise: these are called *select committees*. Both standing and select committees are appointed in the house of representatives by the speaker; in the senate, they are generally appointed by ballot, but sometimes by the president of the senate. The object of the appointment of committees is the despatch of business. So great a variety and number of subjects require the deliberation of congress at every session, that but a very small portion of them could be disposed of, if the attention of the whole house were confined, during the whole session, to a single subject at a time.

When a committee to which a subject has been referred, has duly investigated it, such committee makes a report to the house to which it belongs. When a committee re-

cations of members judged of? What is a *quorum*? How are committees appointed in the respective houses? And why? What

ports in favor of any measure which it has had under consideration, it usually introduces a *bill* with such report. A *bill* is the draft or project of a law. Bills may also be introduced by an individual member upon leave being granted on motion, after due notice of his intention to move the house to grant it. A bill before it can be passed by either house, must be read three times; and these several readings must be on different days, unless otherwise ordered by the unanimous consent of the house. No bill can be committed or amended until it shall have been read twice. It is then declared to be ready for commitment or for engrossment. [To *engross* a bill, means the copying of it in a large, fair hand, after the amendments have been made to it.]

If the bill be committed, it is committed either to a standing or select committee, or to a committee of the whole house; or if the bill be ordered to be engrossed, the house appoints the day on which it shall be read the third time. When the house resolves itself into a committee of the whole to consider a bill thus committed, the speaker appoints another member to preside as chairman; and the speaker may take a part in the debates as an ordinary member.

Bills of unusual importance are usually referred to a committee of the whole house; and all propositions for taxes, and for appropriations of money, must first be discussed in a committee of the whole. A bill may, at any time before its passage, be re-committed for further consideration; and when it shall have been reported on by a committee, or after it shall have been fully discussed and amended in the house, it is then proposed to be engrossed and read a third time. Then is the proper time for those

is a *select* committee? What is a *bill*? What is the order of proceeding upon a *bill*? What bills must first be acted on in commit-

opposed to the bill, to take their stand against it. If a bill shall have passed one house, it is sent for concurrence to the other, in which it must go through similar forms of examination and discussion. Whether it be agreed to, or amended, or wholly rejected, by the house to which it had been transmitted for concurrence, it is returned to the house in which it originated, with a message communicating the result. If amendments are made in one house which are not agreed to in the other, a message to that effect is sent to the former. If the two houses cannot agree to the amendments, a committee of conference is appointed by each house. If, upon the report of the committee of conference, an agreement or compromise be not effected, the bill is lost.

“ Each house may punish its members for disorderly behavior, and with the concurrence of two thirds expel a member.”

A member may be expelled for a high misdemeanor, though committed elsewhere than in the presence of the house to which he belongs. In determining on expulsion, it is not necessary to adhere to those forms and rules of evidence which are observed in courts of law. By the power granted in this clause of the constitution, congress has exercised the power of punishing for contempt other persons than its own members.

“ Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy.”

Besides the number of copies of the public journals usually printed, there are printed several hundred copies, of which twenty five copies are to be deposited in

tee of the whole? What further order is observed in the progress of a bill? For what may members be expelled? To what does this power extend? Under what regulations are the proceedings

the library of congress for the use of members of congress during any session, and all other persons authorized by law to use the books in the library. And as many other copies are transmitted to the executives of the several states and territories, as shall be sufficient to furnish one copy to each branch of every state and territorial legislature, and one copy to each college and incorporated historical society in each state; and the residue are deposited in the library of the United States, subject to the future disposal of congress.

"Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting."

"The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States."

The compensation at present received by a member of congress, is eight dollars for every day's attendance in the house, and eight dollars for every twenty miles of estimated distance, by the most usual route, from his residence, both going to, and returning from, the place of the meeting of congress. The president of the senate *pro tempore*, when the vice president shall be absent, and the speaker of the house of representatives, respectively receive, in addition to their compensation as members of congress, eight dollars for every day's attendance on their respective houses. In order to preserve the freedom of deliberation, no members of either house shall be questioned in any other place, for any speech or debate therein.

of congress published? How is the power of each house to adjourn restricted?

What compensation do members of congress receive? What do the speaker of the house and president *pro tem.* receive? Why

"No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office."

Civil offices are created, and the salaries of public officers are established, by congress. Therefore, to take away from its members all inducement unnecessarily to create offices, their appointment to them is prohibited. In order to preserve, as far as possible, purity of action in the national legislature, it has by law been provided, that no member shall be allowed to make any contract, or to have any interest in any contract, to be made with any officer of the United States, or with any person authorized to make contracts on the part of the United States. Upon conviction for a violation of this law, a member is adjudged guilty of a high misdemeanor, and fined three thousand dollars; and such contract shall be void.

"All bills for raising revenue shall originate in the house of representatives."

According to the practice of congress, bills for raising revenue are those only which provide for levying taxes, in the strict sense of the term. Bills, therefore, which *indirectly* increase or create revenues, are not considered as revenue bills within the meaning of the constitution.

"Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States; if he approve, he shall sign it, but, if not, he shall return it,

are members not allowed to accept civil appointments?

What bills must originate in the house? What are revenue bills? What order is taken upon a bill after it has passed both houses?

with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two thirds of the house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two thirds of that house, it shall become a law. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return, in which case it shall not be a law."

The provision giving to the president power to negative bills which shall have passed both houses, otherwise called the *veto* power, was not adopted without much discussion. It was opposed on the ground that the action of congress upon any subject ought to be regarded as the act of the people, and must be presumed to be the expression of their will; and that, with this power, a single individual might defeat the represented will of a majority of the people. On the other hand, it was believed to be improbable that a president would ever so far forget his responsibility to the people, as to abuse this power. This power was meant to afford additional security against the passage of improper laws through want of due reflection; but it was thought necessary chiefly to defend the executive department against usurpation by the legislative power. Without this check, the president might gradually be stripped of his authority.

What is the power of an executive to negative a bill called? Why is the power given?

CHAPTER V.

Revenue.—Taxes, Duties, &c.

By *revenue* is understood the annual income of a nation, or those contributions to its treasury which are levied to defray the expenses of government. The money required for this purpose is usually raised by taxation. The constitution therefore authorizes congress "to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare." It was necessary that congress should possess this power, as no government can be supported without the means of procuring an adequate supply of *revenue*.

Taxes are that portion of the property of its subjects which a government exacts from them to supply the public necessities. These are called *direct taxes*, and are either taxes on land, or *capitation* or *poll taxes*. The treasury of the United States has been several times supplied by tax on landed property. But it is many years since direct taxes were resorted to. The income derived from duties on importations, from the sales of public lands, and from the post office, has proved sufficient to pay all the charges of the government, and to diminish rapidly the public debt. Duties on imported goods, however, constitute the chief portion of the revenue. They are called *indirect taxes*, because they are not directly levied upon property, but they merely affect the expense or consumption of goods. Duties, customs, excises and imposts,

What is *revenue*? Whence does congress derive power to raise a revenue? For what purpose is a national revenue needed? What are taxes? What are *direct taxes*? What kind of taxes are duties, excises, &c.? Why called *indirect taxes*? On what are du-

are words of nearly the same meaning. They are laid on imports and tonnage.

Duties on Imports. *Imports* are articles brought into a country from a foreign place. A duty on imports is not merely a tax on the act of importation, but an impost on the article imported. Duties are either specific or *ad valorem*. *A specific duty* is a tax of a certain, specified amount, laid upon an article by weight or measure, or in the gross. Thus a duty of ten cents on a pound of tea, or fifty cents on a yard of cloth, is called a specific duty. *Ad valorem* is a Latin phrase, signifying according to the value. *Ad valorem* duties are therefore such as bear a certain proportion to the value of the goods. A duty of fifty per cent., that is, at the rate of fifty cents on every dollar, or fifty dollars on every hundred dollars of the cost or estimated value of goods, is an *ad valorem* duty. Thus, if a yard of cloth, valued at one dollar, were subject to a duty of fifty per cent., such duty would be fifty cents a yard; if the value of the cloth were two dollars, the duty at the same rate would be one dollar a yard, the amount of duty on the yard varying according to the value of the article.

Tonnage Duties. *Tonnage* is the amount of goods that a ship will carry; the contents or burthen of a ship; or the amount of weight she may carry. The duty charged on ships according to their burthen, or the number of tons at which they are rated, is called *tonnage duty*. These duties are usually fixed by congress. Some of the regulations with regard to tonnage duties are the following:

By acts of 1790 and 1817, vessels of the United States, when entered in the United States from a foreign port or place, are made subject to a duty of six cents a ton; but

ties usually laid? What are *imports*? What are *specific duties*? What are *ad valorem duties*? What is the meaning of *tonnage*?

if the officers and two thirds at least of the crew of a vessel be not citizens of the United States, there shall be paid on such vessel fifty cents a ton. On every such vessel, entered in a district in one state, from a district in another state, the duty is six cents; but unless three fourths of the crew be American citizens, fifty cents a ton shall be paid. But the law imposes a higher duty on foreign than on American vessels. The above acts provide that on vessels built within the United States, but which belong wholly or in part to subjects of foreign powers, a duty of thirty cents a ton shall be paid; on other vessels, fifty cents a ton. On foreign vessels, entered in the United States from a foreign port at which American vessels are not ordinarily permitted to trade, there shall be paid a duty of two dollars a ton. Duties imposed on the tonnage of vessels, must in all cases be paid to the collector at the time of making entry, and before any goods may be unladen.

Drawback. A *drawback* is an allowance made to importing merchants on the re-exportation of certain goods. This allowance consists either of the whole or a part of the duties which had been paid upon the importation. In England, the practice prevails to some extent, of allowing the merchant who imports a commodity which he may wish to export again, to deposit it in the public warehouses, giving a bond for the payment of the duties should he dispose of it for home consumption. This is called *bonding*. In the United States, a drawback is allowed on all such as shall be re-exported to a foreign place, within twelve months after the duties on the importation shall have been paid, or security given for the payment of the same: provided the exportation be made by the sea, in vessels of not less than thirty tons burthen.

To what duty are vessels of the United States subject? In what cases is a higher duty levied? Why is this preference given to American vessels? What is a *drawback*? Under what circum-

No drawback may be allowed on goods, unless the duties thereon amount to fifty dollars, nor unless they be exported in the original packages in which they were imported. For all goods entitled to drawback, the exporter receives from the collector a debenture for the amount of the drawback to which the goods are entitled. A *debenture* is a certificate stating the sum due to the exporter for the drawback of duties. It is made payable at the time when the duties on the goods shall become due; and the collector shall discharge the debenture out of the products of the duties arising on the importation of the goods.

CHAPTER VI.

Revenue—continued.—Collection of the Customs.

Officers of the Customs. There is appointed in every district of the United States, a *collector*, whose duty it is to receive, at the port within his district, all reports, manifests and documents to be made or exhibited on the entry of any vessel, to record all manifests, and to receive the entries of all vessels and the goods imported in them. He is also required to estimate the duties, to receive all moneys paid for duties, and to take bonds for securing the payment thereof. He grants all permits for the unlading and delivery of goods; and, with the approbation of the principal officer of the treasury, he employs proper persons as weighers, measurers, gaugers and inspectors at

stances are drawbacks allowed? What is a *debenture*?

What are the duties of a collector of the customs? Of a surveyor?

the several ports within his district, and provides storehouses, scales, weights and measures.

There are appointed, at ports where it may be necessary, also a *naval officer* and *surveyor*. It is the duty of a naval officer to receive copies of all manifests and entries, and, with the collector, to estimate the duties on goods, and to keep a record thereof. He countersigns all permits, certificates, clearances, debentures, and other documents granted by the collector; examines the collector's abstracts of duties, and other accounts of receipts, bonds and expenditures; and, if found correct, he certifies them. The surveyor superintends and directs the inspectors, weighers, measurers and gaugers within his port. He visits and inspects the vessels that arrive, and makes a return in writing every morning to the collector of vessels arrived the preceding day. He is in all cases subject to the direction of the collector.

In each of the ports at Boston, New York, Philadelphia, Baltimore, Charleston, Savannah and New Orleans, two *appraisers* are appointed, to inspect and appraise such goods as the collector may direct, and whenever that duty shall be required by any acts relative to imports and tonnage.

The collector, naval officer, surveyor and appraisers, are appointed by the president and senate; all of whom but the last named, are required to give bonds with sureties for the faithful performance of their duties.

The compensation of the appraisers is fifteen hundred dollars a year, each; excepting those for the port of New York, who receive two thousand each. The collectors, naval officers and surveyors receive specific fees for the

Of a naval officer? In what ports are appraisers appointed? What compensation do they receive? To what amount are the emoluments of collectors, naval officers and surveyors limited? How

several acts and duties they perform. But whenever the emoluments of a collector of the ports above named exceed four thousand dollars a year, of a naval officer three thousand dollars, and of a surveyor two thousand five hundred dollars, besides the necessary expenses incident to their offices, the excess shall be paid into the treasury of the United States. And whenever the emoluments of any other collector exceeds three thousand dollars, of any other naval officer two thousand five hundred dollars, or of any other surveyor two thousand dollars a year, besides expenses, the excess shall be paid into the treasury.

Manner of collecting the Customs. The master or captain of every vessel belonging to citizens of the United States, in which goods are imported, shall have on board a *manifest*, which is a writing signed by himself, stating the name of the place where the goods were taken on board, and of the place to which they are consigned; the name, description and tonnage of the vessel, and the place to which she belongs; the name of each owner and her master; with a particular account of all the goods on board. It contains also the names of the persons that send the goods, who are called *consignors*, and the names of the persons to whom the goods are sent, who are called *consignees*. After the report of the master of the vessel to the collector is made, the owner or consignee of the goods makes an *entry* of the same, in writing, with the collector, specifying the names of the vessel and master, the place whence the goods were imported, the marks, numbers, denomination and prime cost of the same; and swearing to the truth of his statement, and its conformity

the excess, (if any,) disposed of? What writing must a master have on board? What is a manifest? Who are *consignors*? Who are *consignees*? What is an *entry*? and how made? How, and by

to the manifest. When the amount of duties is ascertained, the consignees pay the same, or give bonds with sureties for the payment of them, at a certain time afterwards. The collector then grants a written *permit* for the unloading and delivery of the goods.

To secure the collection of duties, congress has made provision, by the imposition of heavy fines and penalties for the violation of the revenue laws, and by authorizing officers of the customs to seize and search vessels that may be suspected to contain goods subject to duty, the payment of which is designed to be evaded. The getting of goods on shore secretly without paying the duties, is called *smuggling*. In some cases of frauds on the customs, all the goods are forfeited, and become the property of the United States.

Further provision has been made to collect the duties, by authorizing the president to cause to be built and equipped so many revenue cutters, not exceeding twelve, as may be necessary to protect the revenue. A *revenue cutter* is a small, fast sailing vessel used for apprehending smugglers, and for boarding vessels supposed to contain contraband goods. The collectors of the respective districts also may, with the approbation of the secretary of the treasury, provide small open row and sail boats to be used by surveyors and inspectors to enable them to go on board of vessels, and otherwise to detect frauds. All penalties accruing by breaches of the revenue laws, must be sued for in the name of the United States of America, in courts of the United States having jurisdiction in such cases.

whom are the duties paid? What is a permit? What provisions are made to secure the collection of the revenue? What is *smuggling*? What is a *revenue cutter*? What was the amount of the

The whole revenue of the United States in 1833, from all sources, as appears from the annual report of the secretary of the treasury, was as follows: From customs, \$29,032,508 91; lands, \$3,967,682 55; dividends on bank stock, \$474,985; sales of bank stock, \$135,300; incidental items, \$337,949 79; total, \$33,948,426 25. This amount exceeds that of any former or subsequent year.

CHAPTER VII.

Public Expenditures.

IN connexion with the power to lay and collect taxes, duties, imposts and excises, congress has the power "to borrow money on the credit of the United States," as equally requisite to pay the debts and provide for the common defence and general welfare.

A power of taxation of some kind or other must be possessed by every government to enable it to provide for paying the ordinary expenses of its administration; and the power to borrow money is sometimes indispensable, for national defence, and other purposes for which the revenue of the country may prove to be inadequate.

Public Debt. The purpose for which congress has found it especially necessary to exercise the power of borrowing money, was the payment of the public debt. By

revenue in 1833? How much of this amount was received from customs?

For what purpose is the power of taxation necessary? And for what the power of borrowing money? For what special purpose has this power been exercised by congress? How and where was

the articles of confederation, the government adopted the public debt previously contracted to support the war; and the sixth article of the present constitution imposes on the United States all debts contracted before its adoption. The whole amount of public debt existing at the time the constitution was adopted, was nearly eighty millions of dollars. A tax upon individual property to liquidate so large a debt, would have been at that time extremely burdensome and oppressive to the citizens. Provision was therefore made in the constitution, authorizing congress to borrow money for this purpose, and to pledge the credit of the United States for its payment. By this means, together with such portion of the revenue arising from duties on imports and tonnage as was not required for the support of the government, and the proceeds of sales of public lands, congress has been enabled so to control the public debt as to prevent, almost entirely, the necessity of a recourse to direct taxation.

The manner in which the government borrows money, is as follows:

When money is wanted to pay a debt, congress passes an act, authorizing the secretary of the treasury, or other person, to borrow the money, and to make the United States debtor for the same. The act states the amount to be borrowed, the time when it is to be paid, and the rate of interest. Persons who wish to lend money, then subscribe, in books opened for that purpose, the sums they will respectively lend; and for the sums so subscribed and lent, certificates are given by the agent of the government, stating the amount for which the United States are indebted. The debt so contracted, and for which the

What was the amount of the public debt when the constitution was adopted? From what sources were derived the means of paying the public debt? What is the manner in which the government

certificates are thus given, are called *stocks*. To persons having these certificates, the government pays, quarterly, the interest that accrues on them at the rate expressed in the act. These certificates are often bought by persons to sell again. When they are sold at a price equal to the amount expressed in them, stocks are said to be *at par*. If their market price is higher or lower than their nominal value, they are said to be above or below par.

During the late war, provision was made for borrowing money, by an act which authorized the issuing of notes by the treasury, bearing interest at six per cent. These notes were receivable by the government in payment for taxes, duties, public lands, &c.

By the purchase of Louisiana, in 1803, and the expenses of the late war, the public debt was increased to more than 127 millions of dollars. One of the means adopted to liquidate the public debt, was the creation, at an early period, of a sinking fund. [*Sinking fund* signifies that part of the national revenue which is set aside for the national debt.] Additional yearly appropriations were made, from time to time, until, in consequence of the augmentation of the public debt, by the Louisiana stock, it became necessary to increase it to 8,000,000 of dollars.

By the act of 1817, so much of all former acts as related to appropriations for the purchase of the principal, and payment of the interest of the funded debt, was repealed; and a yearly appropriation of 10,000,000 of dollars, arising from duties on imports and tonnage, internal duties, and from sales of public lands, was made, for

borrows money? What are *stocks*? May stocks be bought and sold? When are stocks said to be *at par*? In what other manner was money borrowed during the late war? How did these notes answer as money? What was this debt in 1815? From what especial causes had it been thus increased? What is a *sinking fund*?

the reduction of the public debt. By the application of this amount every year, together with such other portion of the yearly revenue as remained after paying the expenses of the government, the national debt has at length been entirely liquidated. The following table exhibits the amount of public debt, on the first of January, in each year, from the year 1791, to the period of its extinguishment.

Year.	Amount.	Year.	Amount.
1791	\$75,463,476	1814	81,487,846
1792	77,227,924	1815	99,833,660
1793	80,352,634	1816	127,234,933
1794	78,427,404	1817	123,491,965
1795	80,352,934	1818	103,466,633
1796	83,762,172	1819	95,529,648
1797	82,064,479	1820	91,025,500
1798	79,228,529	1821	89,987,427
1799	78,408,669	1822	93,546,676
1800	82,976,294	1823	90,875,877
1801	83,038,050	1824	90,269,777
1802	80,712,632	1825	83,788,432
1803	77,054,686	1826	81,054,059
1804	86,427,120	1827	73,987,357
1805	82,312,150	1828	67,475,043
1806	72,723,270	1829	58,421,413
1807	69,218,398	1830	48,580,535
1808	65,196,317	1831	39,082,461
1809	57,023,192	1832	24,282,879
1810	53,173,217	1833	7,001,698
1811	48,005,587	1834	4,722,260
1812	45,209,737	1835	0,000,000
1813	55,962,827		

Only nine years ago, our national debt was \$81,000,000. In 1816 the interest alone amounted to \$7,000,000. In 1826, to almost \$4,000,000. Since the beginning of

What were the provisions of the act of 1817? What was the national debt in 1791? In 1800? In 1812? In 1816? In 1825? In 1835?

that year, we have paid off, including interest, very nearly a hundred millions of dollars, over and above our current expenses, almost without feeling it.

CHAPTER VIII.

Of Commerce.

Commerce signifies a mutual change of goods, productions, or property of any kind, between nations or individuals, either by barter, or by purchase and sale. When we speak of the commerce of a nation, we have reference to its trade with other nations.

Congress has power, by the constitution, "to regulate commerce with foreign nations, and among the several states, and with the Indian tribes."

The propriety of vesting this power in congress is plain: its exercise by the several states might have produced a different system in each state, and caused mutual jealousies, rivalries and restrictions, which could be prevented only by a common superior power. The general power of congress to regulate commerce, is not restricted to the mere buying and selling, or exchanging of commodities; but it extends to navigation by vessels propelled by steam or otherwise, by vessels exclusively employed in transporting passengers, and to every species of commercial intercourse with foreign nations, and among the several states, and Indian tribes.

What is *commerce*? For what objects has congress the power to regulate commerce? Why might not the several states exercise

Navigation is the art or practice of conducting or carrying a ship from one port to another; and implies whatever relates to traversing the sea in ships. In pursuance of the power to regulate commerce, congress has enacted laws conferring privileges upon ships built and owned in the United States, in order to encourage domestic navigation. This is done by imposing higher duties of tonnage and impost upon foreign vessels, and goods imported therein, than those required to be paid upon vessels of the United States, and goods imported in them. These duties are called *discriminating duties*, as the law discriminates, or makes a distinction between foreign and domestic navigation, giving a preference to the latter.

Vessels of the United States, to be entitled to the privileges enjoyed by such ships or vessels, must be *registered* pursuant to the laws of the United States; and they must be wholly owned and commanded by citizens of the United States. After the admeasurement of a vessel by a surveyor to ascertain her tonnage, the collector records or registers in a book kept for that purpose, the names of the vessel and the port to which she belongs, her burthen, the year, and the name of the place in which she was built. A certificate of such record or registry is then given by the collector of the district to the owner or commander of the vessel, who is required to give a bond with sureties, that the certificate of such registry shall be used only for the vessel for which it is granted. The law provides, that if a certificate of registry be fraudulently used for any vessel not entitled to the benefit thereof, such vessel shall be forfeited to the United States.

this power? What is *navigation*? By what means does congress encourage domestic navigation? How is this privilege conferred? What are these duties called? Why? What is required of vessels to be entitled to this privilege? How are vessels registered?

The master of a vessel departing from the United States, and bound to a foreign port, is required to deliver to the collector of the district, a manifest of all the cargo on board, and its value, by him subscribed and sworn to be true; upon which the collector grants a clearance for such vessel. A *clearance* is a certificate stating that the commander has entered and cleared his vessel according to law. Every vessel of the United States going to a foreign country, shall, at the request of the master, be furnished with a passport, the form of which is to be prepared by the secretary of state, and approved by the president; for which passport, the master of the vessel shall pay ten dollars. A *passport*, as applied to navigation, is a license or writing granted by the proper authority of a country to navigate in some particular sea without hindrance. It contains the name of the vessel and that of the master, her tonnage and the number of her crew, certifying that she belongs to the subjects of a particular state, and requiring all persons at peace with that state to suffer her to proceed on her voyage without interruption. A passport is likewise a license for importing or exporting goods without paying duties.

Passenger vessels are not permitted to carry a greater number of passengers than two for every five tons of their burthen. If the master or other person on board of a vessel of the United States, shall take on board at a foreign place, or bring into the United States; or if he shall transport from the United States to a foreign place, a greater number of passengers than two for every five tons of such vessel, according to the custom house measurement, he shall forfeit and pay one hundred and fifty dollars for

What is a *clearance*? What must a master of a vessel do to be entitled to a *clearance*? What is a *passport*? What does it contain? What restrictions are imposed upon passenger vessels? What pen-

every passenger above the number prescribed. If the number of passengers shall exceed such number by twenty, the vessel shall be forfeited to the United States. The master or captain of a vessel is required to report to the collector a list or manifest of all the passengers, designating their age, sex and occupation; the country to which they belong, and of which they intend to become residents; and the number, if any, that have died on the voyage.

Seamen in Merchants' Service. None but citizens or persons of color, natives of the United States, may be employed on board a vessel of the United States. If the commander of a vessel employ any other than such persons on board his vessel, he shall forfeit and pay one thousand dollars for each person so employed; and the master of every vessel bound to a foreign place, or of every vessel of the burthen of one hundred and fifty tons or upwards, bound to a port in any other than an adjoining state, is required to make a written or printed agreement with every seaman or mariner which shall be employed on such vessel. Every vessel of the burthen of one hundred and fifty tons or upwards, navigated by one or more persons, and bound on a voyage beyond the limits of the United States, and all merchant vessels of the burthen of seventy five tons or upwards, navigated by six persons or more, and bound to the West Indies, shall be provided with a chest of medicines accompanied by directions for administering the same. Vessels crossing the Atlantic ocean, shall have on board at least sixty gallons of water, one hundred pounds of salted meat, and one hundred

alty or forfeiture is annexed? What report is the master required to make? What persons only may be employed as seamen on board American merchant vessels? What regulations are made for the support of persons on board vessels? How are sick and

pounds of wholesome ship bread, for every person on board.

A fund is provided for the relief of sick and disabled seamen, by requiring the master or owner of every vessel of the United States arriving from a foreign port into a port of the United States, before such vessel shall be admitted to entry, to pay to the collector, at the rate of twenty cents a month for every seaman employed on board; which sum he may retain out of their wages. The fund thus provided, is administered by such persons as the president of the United States shall appoint for the purpose.

Foreign Vessels. The register, clearance and other papers, granted by the officers of the customs to a foreign vessel, at her departure from the port from which she shall have arrived, shall, previously to her entry in a port of the United States, be produced to the collector with whom the entry is to be made. And it is the duty of the master, within forty eight hours after such entry, to deposite such papers with the consul or vice consul of the nation to which the vessel belongs; and to deliver to the collector the certificate of the consul or vice consul, that the papers have been so deposited. Any master who shall fail to comply with this regulation, shall be fined in a sum not less than five hundred, and not exceeding two thousand, dollars. But this regulation does not extend to the vessels of foreign nations, in whose ports American consuls are not permitted to have the custody of the register and other papers of vessels entering the ports of such nation. No foreign consul may deliver to the master of

disabled seamen provided for? How is this fund raised? By whom administered? What is required of foreign vessels previously to their entry? To whom must the papers be delivered? What is delivered to the collector? What is the penalty for neglect? What

a foreign vessel, the register and other papers left with him, until the master shall produce to him a clearance from the collector of the port. For a violation of this law, such consul shall be fined in a sum not less than five hundred, nor exceeding five thousand dollars.

Embargo and Quarantine. Under the power to regulate commerce with foreign nations, congress may pass embargo and quarantine laws. *Embargo*, in commerce, means a stop put to trade; or, a prohibition of state, commonly on foreign ships, in time of war, to prevent their going out of port or coming in. Previously to the war of 1812, a law of this kind was passed, (December, 1807.) In a case tried in the district court of Massachusetts, 1808, it was objected that the act was unconstitutional; that congress had no right, under the power to regulate commerce, thus to *annihilate* it, by interdicting it entirely with foreign nations. The court decided that the act was constitutional. The power of congress relative to commercial intercourse is sovereign, except so far as it is qualified by the restrictions expressed in the constitution.

Quarantine signifies the time during which a ship, coming from a port suspected of contagion, or of having contagious sickness on board, is forbidden to have intercourse with the place where she arrives. The term is said to be derived from the Italian *quarantina*, meaning a space of forty days, that being originally the period fixed for detaining ships in such circumstances. But the time now varies according to the exigencies of the case. Quar-

vessels are exempt from this regulation? How does the master again obtain his papers? To what penalty is the consul subject for a violation of the law?

What is an *embargo*? When was an embargo law passed? Has congress power to pass such a law? What is the meaning of *quarantine*? By what authority are these laws enacted in this coun-

antines are required by the health laws of a state: and congress has enacted that all vessels, whether from a foreign port, or from another district in the United States, and all revenue officers, shall be subject to the health laws of the state to whose ports such vessels are bound. And the president may direct suitable houses to be purchased or erected, in which goods may be landed from vessels subject to quarantine, at such other place in the state, as the safety of the revenue, and the observance of the health laws, may require.

CHAPTER IX.

Commerce—continued.

Protecting Duties. The power "to regulate commerce," as well as the power "to lay and collect duties, imposts and excises, to pay the debts and provide for the common defence and general welfare," has, from an early period of the government, been employed in laying duties for the purpose of encouraging and protecting articles of domestic produce or manufacture. These are called protecting duties, because they protect or defend the domestic grower or manufacturer against injury from foreign competition. Most of the manufactured goods formerly consumed in this country, were brought from abroad, where, from the superior advantages which older countries pos-

try? What may the president do for the landing of goods from vessels under quarantine?

Under the grant of what power are protecting duties laid? Why

sessed for manufacturing, could be procured at cheaper rates. But to encourage domestic or home manufactures, and to render our nation independent of foreign nations for its supplies, the policy was adopted of imposing upon foreign goods, such duties as would make their cost equal to the cost of similar goods manufactured by our own citizens; and thus providing for the latter a market at home.

But this policy has always received much opposition. It is objected to, first, because the constitution does not authorize congress to lay duties except for purposes of revenue; and, secondly, because the duty thus collected is an unjust tax upon the consumer. It is replied to the latter of these objections, that when any article is duly protected, the increased quantities in which such article will be produced, and the increasing facilities for manufacturing the same, will ultimately reduce the price to that of a similar article imported. The right of congress thus to protect domestic industry, is inferred from the power "to lay duties to provide for the common defence and general welfare." The term "general welfare," if it be allowed its share in the meaning of this clause of the constitution, must imply the power to lay duties to encourage domestic manufactures; especially as the general welfare is usually promoted by such encouragement. It is further argued in favor of this power, that the framers of the constitution, in providing for the regulation of commerce among foreign nations, cannot be presumed to have overlooked the object of authorizing congress to counter-vail the restrictions which foreign nations might impose upon our trade. The practice of the government has,

are they called *protecting* duties? What is the object of these duties? On what grounds are these duties objected to? How are these objections answered? What has been the practice of the gov-

from a very early period, been in accordance with this opinion.

The power of congress to regulate foreign commerce, extends also to wrecks of the seas; the construction of light houses; the placing of buoys and beacons; the removal of obstructions to navigation in creeks and rivers, and to the designation of ports of entry and delivery.

Internal Commerce. The power "to regulate commerce among the several states," seems to have been necessary in order to give effect to the power of regulating foreign commerce.

One of the objects of this power was to prevent the levying of unjust taxes or contributions by a state, on goods imported or exported through it by another state. Other evils, which may be readily conceived, might result from the exercise of this power by the several states to regulate trade between each other.

Several cases have arisen involving the question how far this power may be exercised within a state. It is not disputed that all commerce which is completely internal, and carried on between different ports of the same state, and does not extend to other states, is beyond the control congress; while it is equally evident, that the power to regulate commerce may be exercised *within* a state. For there are waters communicating with the ocean which penetrate the interior, passing through several states; and there are waters in and upon the boundaries of several of the states, which afford means of commercial intercourse between those states. In these cases, it is clear that the power of congress may reach the interior of a state.

erment on this subject? To what other objects does the power to regulate commerce extend? What is meant by *internal commerce*? What is the object of the power to regulate internal commerce? May this power be exercised *within* a state? How far are state laws, regulating commerce, valid?

It has been decided by the supreme court, that the acts of the legislature of New York, granting to individuals the exclusive right to navigate the waters of the state in vessels propelled by steam, were unconstitutional and void, and repugnant to the power of congress to regulate commerce, so far as they went to prohibit vessels licensed under the laws of congress to carry on the coasting trade, from navigating the waters of New York.

Coasting Trade. The power to regulate commerce extends to conferring privileges upon vessels of the United States, engaged in the coasting trade and fisheries. *Coasting trade* is the trade carried on between one district and another in the United States, on the sea coast or on navigable rivers. For the more convenient regulation of this trade, the sea coast and navigable rivers of the United States are divided into three great districts; and all vessels of twenty tons and upwards, being enrolled according to law, and having a license, are entitled to the privileges of vessels employed in the coasting trade or fisheries. Vessels of less burthen, having only a license, are entitled to the same privileges. No vessel enrolled or licensed for this trade is permitted to proceed on a foreign voyage, without having given up her enrolment and license, and been registered conformably to the laws regulating vessels employed in foreign trade. If a vessel perform a foreign voyage without complying with this regulation, such vessel, with all her furniture, and goods imported therein, becomes liable to seizure and forfeiture.

What is the *coasting trade*? How are the sea coast and navigable rivers of the United States divided? What is necessary to entitle vessels to the privileges of the coasting trade? Under what restrictions are coasting vessels permitted to proceed on a foreign voyage? What is the penalty for not complying with this provision?

Indian Trade. The power of congress to regulate trade with the Indian tribes, extends to tribes within, as well as without, the boundaries of the United States, or any particular state. It has been a subject of dispute whether the Indian tribes were to be regarded as *foreign nations* in their relations to the United States. It has, however, been decided, that they are not recognized as such by the constitution; but they are to be considered as domestic, *dependent nations*, in a state of pupilage to the general government, and holding their territory by right of occupancy. This right of the Indians to their lands is acknowledged in the treaties made with them from time to time. By these treaties, the Indians place themselves under the protection of the general government, which guarantees to them the peaceable possession of their lands not ceded to the United States.

But intercourse with the Indian tribes, is subject to legislative regulation. The president, by and with the advice and consent of the senate, is authorized to appoint an agent to each of the several Indian nations, to perform such duties as shall be enjoined on him; and for the faithful performance of these duties, he shall give bonds in the sum of ten thousand dollars. The salaries of these agents are, from twelve hundred to eighteen hundred dollars a year, each. The president is required also to cause the boundary line between the Indian territory and the United States to be ascertained and marked. To promote civilization among them, and to secure the continuation of their friendship, the president may furnish them with domestic animals and implements of husbandry, and with goods or money, as he shall judge proper: but the amount of such presents may not exceed fifteen thousand dollars

What relation do the Indian tribes bear towards the U. States? How do they hold their territory? How is Indian intercourse reg-

a year. He may also employ capable persons of good moral character to instruct them in agriculture, and their children in reading, writing and arithmetic, at an expense not exceeding ten thousand dollars.

Offences committed by and against the Indians. If any Indian shall enter into any state or territory, and commit any trespass, murder, or other outrages upon citizens of the United States, satisfaction must be made by the tribe, to which such Indian belongs, within one year, for the injury committed. If such tribe neglect or refuse to make satisfaction, the facts are reported to the president, that the necessary steps may be taken to obtain satisfaction: and the United States shall guaranty to the party injured, indemnification for the property destroyed; provided the injured party shall not attempt to obtain private satisfaction or revenge, by crossing over the line of any of the Indian lands. But any Indian having so offended, may be apprehended within any state or district: and the president may deduct the sum paid for the property taken or destroyed by such Indian, from the annual stipend which the United States are bound to pay the tribe to which such Indian shall belong.

If a citizen or resident of a state or territory shall make a settlement on the lands of any Indian tribe; or if he shall survey, or attempt to survey, such lands, or designate boundaries, by marking trees or otherwise, the offender shall forfeit a sum not exceeding one thousand dollars, and suffer imprisonment not exceeding one year. The president may take such measures, and employ such force, as he may deem necessary to remove from such lands any person who shall have made a settlement thereon. If

ulated? How are Indian agents appointed? What salaries do they receive? What are the duties and discretionary powers of the

such person shall commit murder, by killing any Indian on Indian territory, he shall, if convicted thereof, suffer death. If any citizen of the United States shall commit any trespass within Indian territory, he shall be liable to punishment, by fine and imprisonment, in proportion to the magnitude of the offence. The agents and superintendents of Indian affairs, may, under the direction of the president, grant to citizens of the United States, but to no other person, licenses to trade with the Indian tribes, taking bonds, with sureties, for the due observance of the laws regulating trade with the Indian tribes. Any person who shall attempt to reside in any town or hunting camp of any tribe, as a trader without license, shall forfeit the merchandize found in his possession, or offered for sale, and shall be liable to a fine and imprisonment. No citizen shall buy or receive, of any Indian, by way of trade or barter, a gun or other article used in hunting, instrument of husbandry, or article of clothing, except furs or skins; nor shall he buy a horse within the Indian territory, without special license for that purpose.

CHAPTER X.

Naturalization of Aliens.

THE power of congress next enumerated is the power "to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States."

president relative to this subject? What laws exist for the punishment of offences committed by and against Indians?

But while the constitution provides for naturalizing aliens, it does not define the character either of citizens or aliens. In the absence of such definition, reference must be had to the English common law. In the United States, an *alien* may be defined to be a person born out of the jurisdiction of the country, and not having acquired the rights of naturalization. To this rule, there is, however, an exception. In accordance with the principle of the English law, the right of citizenship is given by the act of 1802, to children, born out of the jurisdiction of the United States, of persons who are citizens of the United States: such, for instance, are the children of public ministers born during the residence of their parents in a foreign country.

By the adoption of the constitution, the citizens of each state were made citizens of the United States; for all who were not *native citizens*, or citizens born within the United States, acquired the rights of *naturalized citizens*, by assuming allegiance to the government. Aliens cannot acquire a title to real estate. Should they purchase it, it is forfeited to the state whenever it is ascertained by proper examination to be the property of an alien. But aliens sometimes do own real property, holding it in the name of a friend. They may own and transmit personal or moveable property in the same manner as citizens; and they may bring suits for the recovery and protection of such property.

Naturalization. In pursuance of the power granted by the constitution, congress has provided a mode of removing the disabilities of aliens. By complying with the terms of these provisions, every alien may obtain the

What constitutes an alien? What effect had the adoption of the constitution upon aliens? What are their abilities and disabilities

privileges of natural born citizens. *Naturalization*, is the investing of an alien with the rights and privileges of a native subject or citizen.

An alien, to become a citizen of the United States, shall declare on oath before a court of some one of the states, or a circuit or district court of the United States, or before a clerk of either of said courts, *two* years before his admission, that it was, bona fide, his intention to become a citizen, and to renounce forever all allegiance to any foreign prince, state or sovereignty, and particularly by name that whereof he is a citizen or subject. He shall, at the time of his application, declare on oath before one of the said courts, that he will support the constitution of the United States. The court admitting such alien shall be satisfied that he has resided within the United States five years at least, and within the state or territory in which such court is at the time held, one year at least; and that, during that time, he has behaved as a man of a good moral character, attached to the principles of the constitution of the United States, and well disposed to the good order and happiness of the same. But the oath of the applicant shall not be allowed to prove his residence.

By the act of May 26. 1824. an alien minor may be admitted a citizen at any time after he shall have arrived at the age of twenty one years, if he shall have resided five years in the United States, including at least three years of his minority, without having made a previous declaration of his intention to become a citizen. It is sufficient that the declaration be made at the time of his admission: provided that he then declare on oath, and prove to the satisfaction of the court, that, for three years

as to holding property? What is *naturalization*? What declarations on oath must an alien make in order to become a citizen? Before what court? What further is required of an applicant? What

next preceding, it has been his intention to become a citizen, and that he shall in all other respects comply with the laws in regard to naturalization.

By the act of May 24, 1828, an alien who resided in the United States before the 18th June, 1812, and continues to reside here, need not previously make the declaration of his intention to become a citizen: provided he shall prove to the satisfaction of the court, that he was residing in the United States, before the 18th June, 1812, and that he has continued to reside here; and provided also that his residence shall be proved by the oath or affidavit of citizens of the United States. If the alien shall have arrived after the peace of 1815, his residence must have been continued for five years next preceding his admission, without having been, at any time during the five years, out of the territory of the United States.

Children of persons duly naturalized, being minors at that time, shall, if dwelling in the United States, be deemed citizens. And if any alien shall die after his declaration, and before his actual admission, his widow and children shall be deemed citizens.

A previous residence of five years is in all cases required to become citizens; the reason of which is obvious: It is not to be presumed that strangers can have, upon their arrival among us, that knowledge of our political institutions, and that attachment to them, which are necessary to qualify them for discharging the duties of citizens. Such is the nature of our government, that it can be safe only in the hands of those who understand and love the principles on which it is founded. And yet, important as this

are the provisions of the act of May, 1824? The act of May, 1828? Under what circumstances are children of aliens deemed citizens? Why is a previous residence of five years in all cases required?

knowledge is, a large portion even of our native citizens, are little acquainted with the free institutions of their own country.

CHAPTER XI.

Bankruptcy.

ANOTHER of the powers granted to congress is the power "to establish uniform laws on the subject of bankruptcies, throughout the United States."

The word *bankrupt* is derived from *bancus*, a bench, and *ruptus*, broken, in allusion to the benches formerly used by money lenders in Italy, which were broken or destroyed in case of failure. This word generally means an insolvent person, but, more strictly, an insolvent merchant. A distinction has been made by some between insolvent laws and bankrupt laws: the latter providing for discharging the debtor from his contracts; the former merely liberating his person.

This power is for several reasons entrusted to congress: (1.) To preserve uniformity and equality of rights and remedies among the citizens of all the states. Much inconvenience had arisen from the dissimilar and conflicting laws of different states, and from the refusal of some states to act on the subject. (2.) Because creditors in one state are not bound by the bankrupt laws of another: so that a debtor, though released from his debts in one state, is

What is the meaning of *bankrupt*? From what is the word derived? For what reasons was the power to pass bankrupt laws given to congress? How far may the power of enacting insolvent

still liable to be harassed by new suits whenever he removes without the state boundaries. (3.) This power in the general government is essential, also, to maintain commercial credit and intercourse with foreign nations.

As the constitution prohibits the states from passing "laws impairing the obligation of contracts," the right of a state to pass insolvent or bankrupt laws, is questioned by many, who maintain that these laws do impair the obligation of contracts; and that, as the power is given to congress to establish a uniform system of bankruptcy, the power to make insolvent laws is thereby taken away from the states. By the decisions which have been made by the supreme court of the United States, the following points appear to have been settled:

(1.) That a state has no authority to pass an insolvent or bankrupt law to discharge a debtor from the obligation of a contract made before such law was passed. But if the law existed before a contract was made, it did not, in the sense of the constitution, impair the obligation of that contract, because parties are presumed to have reference to the existing laws of the country when such contract is made.

(2.) That until congress establish a uniform system of bankruptcy, a state may pass such insolvent laws as do not impair the obligation of contracts.

(3.) That a discharge is valid only between the citizens of the state by which such law was passed; and that a debtor, if he should remove into another state, and there take the benefit of an insolvent law, does not discharge himself from debts contracted before his removal.

laws be exercised? Has congress ever exercised this power? Does such law at present exist? What is the general object of a bankrupt law?

In view of the judicial decisions on this subject, Chancellor Kent observes: "It remains yet to be settled, whether it be lawful for a state to pass an insolvent law, which shall be effectual to discharge the debtor from a debt contracted after the passing of the act, and within the state making the law. The general language of the court would seem to reach even this case; but the facts in the cases decided do not cover this ground, and are not authority to that extent."

Congress has heretofore, (April, 1800,) exercised its power to pass bankrupt laws; but this law was either repealed, or permitted to expire by its own limitation, in December, 1803. At present there is no uniform law on the subject. The general object of a bankrupt law is to relieve unfortunate traders, and, at the same time, to secure the application of their effects to the payment of their debts.

CHAPTER XII.

Money—Weights and Measures.

CONGRESS has the sole power "to coin money, regulate the value thereof, and of foreign coin." To produce uniformity of value in coin throughout the union, this power is exclusively given to congress, as its exercise by the states would cause much embarrassment, vexation and fraud, in consequence of the varying standards that would be established by the different states.

Why is the power to coin money, &c. given to congress? What

The Mint. [*Mint* signifies a place where money is coined by public authority. The word *coin*, (French,) means a stamp; or money stamped with a legal impression. Coining, until within the last two or three centuries, was very imperfectly performed, by placing the blank piece of money between two dies, or steel punches, containing the design of the coin, and striking upon the upper one with a hammer. The imperfection of this hammer-money was caused by the uncertainty of placing the two dies exactly over each other, and the improbability of a man's being able to strike a blow with such force as to make all parts of the impression equally perfect. The coining press, or mill, now used, was invented in France. The bars or ingots of gold or silver, after having been cast, are taken out of the moulds, and their surfaces cleaned. They are then flattened by rollers, and reduced to the proper thickness to suit the species of money to be coined. The plates are next cut out into round pieces by a circular steel punch of the size of the coin, which is driven downward by a powerful screw, and passes through a corresponding circular hole, carrying before it the piece of metal which is punched out. These pieces are brought to the standard weight, if necessary, by filing or rasping: the deficient pieces, together with the corners and pieces of the plates, are returned to the melter. The inscription or impression on the edge is made by rolling the coin, edgewise, between two plates of steel containing the engraved edging. The stamping is performed by pressing the piece with a powerful screw, between two steel dies, on which the figure to be impressed is engraved.]

The officers and persons who conduct the business of the mint, are a director, a treasurer, an assayer, a chief

is the meaning of *mint*? Of *coin*? Describe the process of coining money? What officers and persons are employed in the mint?

coiner, an engraver, a melter and refiner. The *director*, with the approbation of the president of the United States, employs the necessary clerks and workmen, and has the chief management of the business of the mint. The *treasurer* receives the metals brought to be coined, and gives receipts for the same. The *assayer* receives from the treasurer a sufficient number of grains of every parcel, and *assays* them. This is a process to ascertain the quantity of gold or silver in the alloy. *Alloy* is a composition formed by the combination of two or more metals. To *alloy* means to mix a metal of less with one of more value. The baser metals are used to *alloy* gold and silver coins, to prevent their loss by wear. The treasurer delivers the assayed metals to the chief coiner, from whom he receives them when struck, and pays or delivers them to the persons to whom they are to be delivered. He also keeps all moneys for the support of the mint, and pays them out upon warrants signed by the director. The *chief coiner* causes to be coined all metals received by him for that purpose. The *engraver* sinks and prepares the dies with the proper devices and inscriptions. The *melter and refiner* takes charge of all copper, or silver and gold bullion delivered out by the treasurer after it has been assayed, and reduces them into bars or ingots fit for the rolling mills. *Bullion* is uncoined gold or silver in plates, bars or masses.

Value of Coins. The proportional value of gold to silver in all coins by law current as money in the United States, fixed by act of congress of April, 1792, was as fifteen to one: that is to say, fifteen pounds of pure silver were equal in value to one pound of pure gold. By the

What is the business of a director? Of a treasurer? Of an assayer? Of a chief coiner? Of an engraver? Of a melter and refiner? What is *alloy*? What is *bullion*? What was formerly the propor-

same act, the standard for gold coins was eleven parts of pure gold to one part of alloy, the alloy to be composed of silver and copper, not exceeding one half silver. The standard for silver coins was one thousand four hundred and eighty five parts of silver, to one hundred and seventy nine parts of alloy, the alloy to be wholly of copper. But the proportional and standard values have been changed by the act of June 1834. [See Note, Appendix.]

Counterfeiting, &c. With the power of coining money, congress necessarily possesses power "to provide for the punishment of counterfeiting the public securities and current coin of the United States;" for without this power, the power to coin money would be unavailing.

The counterfeiting or debasing of the current coin, is deemed an aggravated offence, and is punished with heavy penalties. If an officer or person employed at the mint of the United States shall debase, or make worse, any gold or silver coin, as to the proportion of fine gold or fine silver, or shall make the same of less weight or value than it ought to be, with a fraudulent intent, or shall embezzle any of the metals left at the mint to be coined, the offender shall be guilty of felony, and imprisoned at hard labor, not less than one year nor more than ten years, and fined not exceeding ten thousand dollars.

If a person shall falsely make, counterfeit, or fraudulently pass any coin in resemblance of the gold or silver coin of the United States, or of foreign coin current in the United States, he shall be liable to a fine not exceeding five thousand dollars, and imprisonment at hard labor, not exceeding ten years, according to the aggravation of the offence. For counterfeiting copper coin, he shall be liable

tional value of gold to silver in coins current as money in the United States? What the present? What is the punishment for debasing coin at the mint? What for counterfeiting gold and silver

to a fine not exceeding one thousand dollars, and imprisonment not exceeding three years. For falsifying, or lightening, for the sake of gain, any gold or silver coin, in actual use as money, imprisonment not exceeding two years, and fine not to exceed two thousand dollars.

If a person shall counterfeit, or aid in falsely making a bill or order on the bank of the United States, or pass, or attempt to pass the same, he shall be imprisoned not less than three, nor more than ten years, and fined not exceeding five thousand dollars. If a person shall engrave, or have in possession an engraved plate, with the intent of using the same in counterfeiting notes of the said bank; or if he shall have in his possession blank notes or bills to be used for this purpose, he shall be imprisoned not exceeding five years, and fined not exceeding one thousand dollars.

Fines and penalties similar to the above, are inflicted upon persons who shall counterfeit or forge any public security, treasury note, deed or power of attorney, certificate of public stock, or other writing relative to the business of the United States.

Weights and Measures. Although congress has the power "to fix the standard of weights and measures;" and, though it would seem necessary that this power should be exercised exclusively by congress, in order to produce uniformity throughout the United States; that body has not yet legislated on the subject. Each state, therefore, retains the right to adopt and regulate its own standard.

coin? Copper coin? United States bank notes? How is the standard of weights and measures regulated?

CHAPTER XIII.

Promotion of Science.—Copy Rights and Patent

AMONG the powers delegated to congress, is the power "to promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right of their respective writings and discoveries."

This power did not exist under the confederation; although its utility has never been disputed. The right of property of authors and inventors in their works, had, before the revolution, been decided to be a common law right, and had been secured to them, for limited times, by acts of parliament. This provision seems to be in accordance with the dictates, as well of policy as of justice. For, without an appropriate reward, there would be little to induce authors to prepare elaborate works for the public. While, therefore, a profit is secured to the inventor, the public is no less benefited by the disclosure of the secrets of the discovery.

By acts of congress, the right of the monopoly is limited to a period of fourteen years. The time of a copy right, which was formerly fixed at this period, was, in 1831, extended to twenty eight years. This provision is deemed a sufficient encouragement to genius. Some of the states, prior to the time of the adoption of the constitution, had, by legislative acts, favored certain discoveries; but as the effect of these laws was confined to the limits

What object is the granting of patents and copy rights intended to promote? How was the power exercised before the constitu-

of a single state, and as the authors and inventors were subjected to the varying laws of the different states, the privileges conferred by the state laws were of little value.

Copy Rights. To secure the exclusive right to print and sell any book, map or chart, the author or proprietor is required to deposit a printed copy of the title thereof, in the clerk's office of the district court where the author or proprietor resides. The clerk records the title in a book kept for that purpose, and gives to the author, under the seal of the court, a copy of the record. For which record, the clerk shall receive fifty cents, and the like sum for every copy, under seal, given to the author or proprietor, or his assigns. The author or proprietor is required, within three months after the publication of the book, map or chart, to deliver a copy of the same to the clerk of the district. The clerk is required, every year, to transmit to the secretary of state of the U. States, a list of all copy rights deposited in his office. The author or proprietor must also cause to be printed on the title page, or page immediately following, of every copy of the said book, if it be a book, or if it be a map or chart, on the face thereof, the following words: "Entered according to act of congress, in the year by in the clerk's office of the district court of ." At the expiration of the term for which a copy right shall have been secured, such right shall be continued for the further term of fourteen years, provided that the title of the work be again recorded, and that all other regulations of the law with regard to original copy rights be complied with, within six months before the expiration of the first term. In all cases of renewal of a copy right, the au-

tion was adopted? For how long a term is each granted? How is a copy right obtained? For how long a period may a copy right be

thor or proprietor must, within two months after the renewal, cause a copy of the record to be published in one or more newspapers printed in the United States, for the space of four weeks.

If any person, after the title of a book, map, chart or engraving, shall have been duly recorded and published, shall cause the same to be printed or published, without the consent of the author in writing, signed in the presence of two or more witnesses, the offender shall forfeit every copy of the same, to the author or proprietor: and he shall further forfeit, if it be a book, fifty cents, or if it be a map, chart or engraving, one dollar, for every sheet found in his possession, or printed, or exposed to sale; one half thereof to the proprietor who shall sue for the same, and the other half to the United States. Any person who shall print or publish the manuscript of an author or proprietor, without his consent, as before mentioned, shall be liable to the author for all damages sustained by the injury.

If any person shall print or publish any book, and print therein, that the same has been entered according to act of congress, without having legally acquired a copy right, he shall forfeit one hundred dollars.

Patents. To secure an exclusive right to make, use and sell any new and useful invention, the inventor must allege that he has invented a new and useful art, machine or manufacture, not known or used before the application, and must present a petition to the secretary of state, for an exclusive property in the same. The secretary of state then causes letters patent to be made out, in the name of the United States, signed by the president, reciting the allegations and suggestions of the petition, giving a

rendered? In what manner must the renewal be made? What are the penalties for violating a right? How are patent rights ob-

short description of the invention or discovery, and granting to the petitioner, for a term not exceeding fourteen years, the sole right to make and vend the said invention or discovery. These letters patent are delivered to the attorney general of the United States to be examined; who, within fifteen days, if he finds them conformable to the law, certifies to the same, at the foot thereof, and returns them to the secretary of state. The secretary of state presents the letters patent thus signed, and causes the seal of the United States to be affixed to them. They are then recorded in a book kept for that purpose, in the office of the secretary of state, and delivered to the patentee, or his order.

Patents may, in a similar manner, be obtained by any person for an *improvement* in an invention; but he may not use the original invention, nor may the original inventor use the improvement. When the patent is for an improvement, the nature and extent of the same must be stated in the specification.

Every inventor, before he presents his petition to the secretary of state, must pay into the treasury thirty dollars. He must also swear or affirm, that he verily believes that he is the true discoverer of the art or improvement for which he asks a patent; and that the same has not, to his knowledge, been known or used, either in this or any other country. If it shall afterwards appear, that such invention had been known or used previously to his application for a patent, the patent shall be void.

Any person who shall make, use or sell any invention, the right of which is secured to a patentee, shall forfeit a sum equal to three times the actual damage sustained by

tained? What sum must be paid for a patent? What penalty is annexed to the violation of a patent right? Are patents and copy rights transferrable?

the patentee, by reason of the offence. If, however, it shall be proved, that there was in the specification any false statement, made to deceive the public, or that the thing thus secured was not first discovered by the patentee, or that the patent was surreptitiously obtained for the discovery of another person, judgment shall be rendered for the defendant. Prosecution for the violation of patents and copy rights must be made in the circuit court of the United States.

Patents and copy rights may be assigned and transferred to others; and the assignees have all the rights secured to the original parties. Rights may be obtained by the heirs of inventors who shall have died before such rights were obtained.

CHAPTER XIV.

Piracy—Felonies on the High Seas, &c.

The power "to punish piracies and felonies committed on the high seas, and offences against the law of nations," is, from its very nature, vested exclusively in congress.

Piracy is the crime of robbery and depredation committed upon the high seas. It is an offence against the universal law of society, a pirate being hostile to the human race; and as he has renounced all the benefits of society and government, by declaring war against all

What is *piracy*? Against what is piracy an offence? What crimes are defined to be piracy? How is piracy punishable? What does the term *high seas* comprehend?

mankind, all mankind must declare war against him. As it is an offence against the law of nations, every nation has a right to attack and exterminate pirates, without any declaration of war. By statutes, both in England and the United States, certain offences are made piracy. By the laws of the United States, if a person commit, upon the high seas, out of the jurisdiction of a state, murder or robbery, or any other offence which, if committed in the body of a county, would, by the laws of the United States, be punishable with death, he shall be adjudged to be a pirate and a felon, and punishable with death. It is declared, further, that if a captain or mariner of any vessel shall feloniously run away with the vessel, or any goods or merchandize to the value of fifty dollars, or shall yield up a vessel voluntarily to pirates; or if a seaman shall lay violent hands upon his commander, to prevent him from defending the ship or goods committed to his trust, or shall make a revolt in the ship; every such offender shall be adjudged a pirate and felon, and be punishable with death. *High seas*, under the statute, comprehends an open roadstead, though vessels lie in it under the shelter of the land, at a season when the course of the wind is invariable; and also any waters, on the sea coast, without the boundaries of low water mark, though such waters be in a roadstead or bay, within the jurisdictional limits of a foreign government.

The African *slave trade*, which was tolerated for many years after the constitution was adopted, was, in 1820, declared piracy. If a citizen of the United States, being of the crew of any vessel owned in whole, or in part, by a citizen of the United States, shall be engaged in the foreign slave trade, he shall be adjudged a pirate, and suf-

When was the slave trade declared piracy? What law was passed in 1800? To what period did the constitution authorize the

fer death. The transportation of slaves *from* the United States, by citizens of the United States, to any foreign country, was prohibited by acts of March 1794, and May 1800. But as the importation of slaves was authorized by the constitution until 1808, no law prohibiting their importation, could be passed by congress, to take effect before that time. By the law of March, 1807, it was prohibited under severe penalties, to import slaves into the United States, after the first of January, 1808. In 1818, to prevent all concern in the trade, on the part of our citizens, they were forbidden to carry slaves on freight, or from one port to another of the same foreign empire, as well as from one foreign country to another. The act of March, 1819, went further, and authorized national armed vessels to be sent to the west of Africa, to stop the slave trade, so far as citizens or residents of the United States were engaged in it; and their vessels and effects were made liable to be seized and confiscated.—The act of May, 1820, went still further, and declared, that if any person whatever, being of the crew of any vessel, armed or navigated for or on behalf of a citizen of the United States, should land on a foreign shore, and seize a negro or mulatto, with intent to make him a slave, or should decoy, or forcibly bring such negro on board such vessel, he should be adjudged a pirate, and should be punishable with death.

Felonies on Water within Admiralty Jurisdiction. If a person, upon the high seas, within the admiralty jurisdiction of the United States, and out of the jurisdiction of a particular state, shall murder, or otherwise so injure any other person, that he shall afterwards die upon the land,

slave trade? When was their transportation *from* the United States prohibited? What law was passed in 1807? What were the provisions of the several acts of 1818, 1819, and 1820? How is piracy

the offender shall suffer death. If a person shall wilfully destroy, or aid in destroying, a vessel of war of the United States on the high seas; or if, being the owner of such vessel, he shall corruptly cast away, or aid in destroying the same, with a design to prejudice any person that has underwritten a policy of insurance, he shall suffer death. For maliciously attacking a vessel with intent to plunder the same, the offender shall be punished by a fine not exceeding five thousand dollars, and imprisonment not exceeding ten years. Numerous other crimes committed within admiralty jurisdiction, are punishable by fine and imprisonment, in proportion to the aggravation of the offence.

Felonies on Land. If a person, within a fort, arsenal, navy yard, or magazine, shall burn a dwelling house, store, barn or other building, he shall be punishable with death. There are other crimes which, if committed within any territory over which the United States have jurisdiction, are punishable with fine and imprisonment. All offences enumerated in this chapter must be tried in courts of the United States.

Offences against the law of nations, are, besides piracy, violations of safe conducts or passports, and infringements of the rights of ambassadors and other foreign ministers. A safe conduct contains a pledge of the public faith, that it shall be duly respected; and the observance of this duty is essential to the character of the government which grants it. The statute law of the United States provides, in furthering the general sanction of the

punished? What felonies committed on water within admiralty jurisdiction, are punished with death? And what with fine and imprisonment? What felony on land here mentioned is punishable with death? What are offences against the law of nations? What do passports contain? What is the penalty for violating a

public law, that persons who violate passports, shall be imprisoned, not exceeding three years, and fined at the discretion of the court. The like punishment is inflicted upon persons who infringe the law of nations by offering violence to public ministers, by being concerned in prosecuting or arresting them. This is an offence highly injurious to a free and liberal intercourse between different governments, and mischievous in its consequences to a nation; as it tends to provoke the sovereign whom the minister represents, and to bring upon the country in which he resides, the calamity of war.

CHAPTER XV.

Of War.—Letters of Marque and Reprisal—Captures—Army and Navy.

CONGRESS has exclusive power "to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water."

That self-preservation, or the right of self defence, is the first law of nature, is a principle that has received the common assent of mankind. If this principle be a just one, it is the right of every nation to adopt all necessary regulations to resist the aggressions of other nations. Upon this principle, the power has been given

passport? What other offence is punishable in like manner?

Upon what principle is the right of resistance founded? What is *defensive* war? What is *offensive* war? In what cases, if any, should a nation resort to war? In what branch of the government

to congress to declare war. A just defence, or making use of force against any power that attacks a nation or its privileges, is *defensive* war. To attain justice by force, if it cannot be otherwise obtained, or to pursue our right by force of arms, is *offensive* war.

But there are cases which, according to the law of nations, constitute justifiable causes of war, when neither good policy, nor a regard for the the national honor, requires such a measure. War is at all times attended with great evils; and the dictates, both of wisdom and humanity, forbid a recourse to war, except in extreme cases. The true honor and dignity of a nation are not most effectually sustained by immediate resort to arms upon every occasion even of real injury.

The ancient practice of formally communicating to the enemy a declaration of war, before hostilities are commenced, is not in use. Such declaration is now made only to the nation that proclaims it. The power to declare war is, in some countries, exercised by the king.—In the United States, it is most properly, as well as most safely, entrusted with congress.

The power of issuing *lettiers of marque and reprisal*, is also given to congress. *Marque* signifies passing the frontier; *reprisal*, the taking in return. Letters of marque and reprisal are given to authorize the subjects of a nation who have been injured by those of another nation, to seize the bodies or goods of the citizens of such offending nation, wheresoever they may be found, until satisfaction be made. This, however, properly belongs to the government, as a single individual, were he at liberty to act as judge in his own case, might, at his own pleas-

is the power to declare war lodged? What are *lettiers of marque and reprisal*? For what purpose are they granted? Why is the power to issue them given to the government? What are *captures*?

ure, involve the whole nation in war, in seeking to redress his private injury.

Connected with the power of declaring war, is the power of making *rules concerning captures*. According to the law of nations, no individual has any interest in a prize, whether made by a public or private armed vessel, but what he receives under the grant of the government. The general practice is, to distribute the proceeds of the captured property, when duly passed upon, and condemned as prize, among the captors, as a reward for bravery, and a stimulus to exertion. But the courts have no power of condemnation, until the legislative will is expressly declared. The district court of the United States has cognizance of complaints in case of capture made within the United States, or within a marine league of the coast or shore thereof. It has also exclusive cognizance of all seizures on land, and on waters other than those navigable by vessels of ten or more tons burthen, within their respective districts, or on the high seas. War gives a nation the right to take the persons, and confiscate the property of its enemy, wheresoever they may be found.

The power "to raise and support armies," and "to provide and maintain a navy," is a power incident to the power of declaring war, and of providing for the common defence of the nation; and necessarily includes the power "to make rules for the government of the land and naval forces."

It is the general policy of nations, in times of peace, to prepare for war. A constant preparation for self-defence is deemed the most certain means of preventing the attacks of an enemy. One of the means provided by con-

Whence is the right to prizes obtained? How are they generally distributed? And when? Before what court are trials for prizes had? What rights does war give a nation? Why is a preparation

gress for the defence and safety of the nation, is a standing army. [A *standing army* is a large number of armed soldiers, kept constantly in pay, and ready for action, in peace as well as in war.] The standing army of the United States consists, at present, of about six thousand men, who are distributed among the several forts and arsenals. But standing armies are by many looked upon with great jealousy, as dangerous to liberty. History furnishes many instances in which nations have suffered great injury from standing armies, and have been even destroyed by them. But the distance of this continent from the powerful nations of Europe, prevents the necessity of keeping up a large and dangerous peace establishment. A navy, however, is supposed to be a safer, as well as a more effective means of national defence. [A *navy* means the ships of war that belong to a nation.]

With the exception of a few years, it has ever been the policy of the government to support an efficient navy. In 1801, congress ordered all the vessels, except thirteen, to be sold: those not directed to be kept in service in time of peace, were to be laid up. In 1805, so much of the act of 1803, as required a certain number of frigates to be kept in service was repealed; and the president was authorized to keep in actual service in time of peace, as many frigates and other vessels as might be necessary, and the remainder were to be laid up. A species of vessels, called gun boats, had been introduced, of which there were ordered to be built and purchased, during the period from the year 1803 to the year 1807, two hundred and seventy.

for self defence necessary? What is a *standing army*? How large is that of the United States? How are standing armies regarded by many? What other means of national defence exist? What is a *navy*? What has been the policy of the government with regard to a navy? When was this policy partially interrupted? What species of vessels was employed? What number of them

Since that period, however, the navy has received due attention, and large appropriations have, from time to time, been made for its increase.

The strength of the navy of the U. States in 1834, was as follows: 7 ships of the line, of 74 guns; 7 frigates of the first class, of 44 guns; 3 frigates of the second class, of 36 guns; 2 sloops of war, of 24 guns; 13 sloops of war, of 18 guns; and 67 schooners, of 18 guns; making in all, 41 vessels. There were then building 5 ships of the line, of which one would carry 140 guns, and 7 frigates.

CHAPTER XVI.

Of the Militia.

THE surest means of national defence lies in the power of congress "to provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions;" and in the power "to provide for organizing, arming and disciplining the militia; and for governing such part of them as may be employed in the service of the United States." This power the constitution gives exclusively to congress; "reserving to the states, respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by congress."

What is the surest means of national defence? What is the present strength of the navy of the United States?

What is deemed the surest means of national defence? How far does the power of congress on this subject extend? What is

It is doubtful whether a constitution would have been adopted that placed the military force wholly under the orders of the national rulers. To attain uniformity in the organization and discipline of the militia, it was necessary that its regulation should be entrusted to the general government. The reservation to the states of the power to appoint officers, and to train the militia, while it left still in the hands of congress all necessary power on this subject, was deemed an essential restriction, in order to guard against the usurpation and abuse of this power by the general government.

The president is commander-in-chief of the militia when called into the actual service of the United States: when not in actual service of the nation, the militia is commanded by the governors of the states, and subordinate officers. The president has, by law, the power to call out the militia, whenever he shall judge it to be necessary, to repel invasions, or to suppress insurrections, within the United States; and he is to be the sole judge of the existence of the emergency requiring the militia to be called into service. To those who object to thus placing the militia at the disposal of the president, it must be replied, that this power is to be exercised upon sudden emergencies, and when the action of congress may not be readily obtained. Neither is it a valid objection that the power may be abused; for all powers, by whomsoever exercised, are susceptible of abuse. The responsibility of the executive to the people, and the watchfulness of their representatives, are deemed sufficient security against usurpation or tyranny. The militia, when called out, are

reserved to the states? Why is this division of power made? When is the president commander-in-chief? Who commands the militia at other times? Who is authorized to call out the militia? On what occasions? Why is this power given to the executive?—

subject to the rules of war; and the law imposes a fine upon every delinquent, to be adjudged by a court martial composed of militia officers only, and held in the manner prescribed by the articles of war.

The law prescribes the manner in which the militia is to be organized, armed, disciplined and governed; and provision is also made for drafting, detaching, and calling forth the *quotas*, or shares, to be furnished by the respective states, when required by the president. Every ~~free~~ able bodied white male citizen, of the age of eighteen, and under forty five years, is liable to do military duty, except such as are by law exempted from the same.

Persons exempted by the law of the United States are, the vice president, and all executive and judicial officers of the government of the United States; members of both houses of congress, and their respective officers; all custom-house officers, with their clerks; post officers and drivers of mail stages; ferry-men employed at ferries on post roads; all pilots and mariners; together with all other persons who may be exempted by the laws of the respective states.

By the law of the state of New York, in addition to the persons exempted by the laws of the United States, the following persons are exempt from military duty: the lieutenant governor; members of the legislature, during the term for which they are elected, and the officers thereof during its meeting, and for fourteen days before and after each meeting; the secretary of state, attorney general, comptroller, treasurer and surveyor general, and the deputies and clerks, in their respective offices; all officers and clerks of the state and county courts; ministers and

What persons are liable to military duty? What persons are exempt by the laws of the United States? What persons are exempt by the laws of New York? How may persons be exempt who

preachers of the gospel, teachers in all colleges, and teachers actually employed in academies and common schools; officers who may have served as such for four years in the militia of this or any other state. Also all firemen attached to supply engines; and all other firemen, belonging to any company, not exceeding sixteen in number; every person actually employed by the year, month or season, in a blooming furnace, iron foundry, glass, woollen or cotton factory; and every student in every college or academy, shall be exempt from military duty, except in cases of insurrection or invasion. And every person averse to bearing arms from scruples of conscience, may be exempt, by paying every year the sum of four dollars.

The militia, when called into the actual service of the United States, are not considered to be in that service, until they are mustered at the place of *rendezvous*; until that be done, a state has a right, concurrent with the United States, to punish their delinquencies: but after the militia shall have been thus mustered into the service of the United States, their character is changed from state to national militia, and the authority of the state government over them ceases.

The militia is *organized*, by their formation into bodies of men, and the denomination and rank of officers, which is done by congress. Congress also prescribes the manner of *arming* the infantry, cavalry, artillery, and other descriptions of force: as also the mode in which they shall be *disciplined*; that is, the system of exercise in which they shall be instructed.

are conscientiously averse to bearing arms? When are the militia to be considered in the service of the United States? What is meant by the *organizing, arming and disciplining* of the militia?

CHAPTER XVII.

District of Columbia—Local Jurisdiction, &c.

CONGRESS has the power "to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may by cession of particular states, and the acceptance of congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings."

The establishment of a permanent seat of government for the United States, after the treaty of peace with Great Britain, received the early attention of congress. In October, 1783, it was resolved, that buildings for the use of congress should be erected on the banks of the Delaware. A few days later, it was resolved, that buildings for a similar purpose should likewise be erected on the Potomac; with a view of reconciling the conflicting wishes of the northern and southern states, by establishing two seats of government. In December, 1784, it was further resolved, that a district should be purchased on the banks of the Delaware, for a federal town; and that contracts should be made for erecting a house for the use of congress and the executive officers, and suitable buildings for the residence of the president and the secretaries of the several

What were the early movements of congress respecting the location of the seat of government? How was the question at length settled? How large is the territory of the District of Columbia?—From what states was it taken? In what city is the seat of govern-

departments. But the appropriation of the necessary fund for these purposes, requiring the assent of nine states, was prevented by the southern interest. In 1790, a compromise was made, by which the friends of Philadelphia, in consideration of having the seat of government at that city, during ten years, the time estimated to be necessary for the erection of the public buildings, agreed that the seat of government should be permanently fixed on the Potomac.

The territory in which the seat of government is located, is ten miles square. It was ceded to the general government by the states of Maryland and Virginia, and erected into a district, under the exclusive jurisdiction of congress, by the name of the "*District of Columbia*." In the city of Washington, which is built near the centre of the district, the necessary buildings are erected for the accommodation of the federal government, where its seat was established at the commencement of the present century. It was in view of the acquisition of this territory, that provision was made in the constitution for its government.

is obviously necessary and proper that congress should possess supreme control at the seat of the national government; and that the members of the general government should not be dependent on a state for protection in the exercise of their duties.

As the inhabitants of this district have placed themselves under the government of congress, they have no voice in the election of representatives, nor of electors of president and vice president. Although laws are from time to time passed by congress for the government of

ment? When did it become such? What body makes laws for the inhabitants of the district? Over what other places has congress exclusive authority? How, and under what circumstances

this district, these acts principally adopt the laws of Maryland and Virginia, as the law of the several portions of the district ceded by those states respectively.

It is equally necessary that congress should exercise like authority over the forts, arsenals, dock yards, and other property of the United States; as the public money expended on such places, and the public property deposited in them, require that they should be exempt from the authority of the particular state in which they are situate.

The power of congress to legislate exclusively within any place ceded by a state, carries with it the right to make that power effectual. Congress may provide, by law, for the apprehension of a person who escapes from such place, after committing a felony; for conveying him to or from any other place for trial or execution. Congress may punish those for misprision of felony, who, out of a fort, conceal a felony committed within it. To give the United States exclusive legislation and jurisdiction over any place in a particular state, there must be a free cession thereof, for one of the purposes specified in the foregoing clause of the constitution. Such jurisdiction cannot be acquired tortiously, nor by occupancy with the tacit consent of the state.

When a place has been purchased by the United States, for the erection of a fort, with the consent of the state, the jurisdiction of the state ceases therein, and the inhabitants of such place cannot exercise therein any civil or political privileges under the laws of the state, as they are not subject to such laws, nor bound to pay taxes imposed by their authority.

is this exclusive jurisdiction acquired? At what period does the state jurisdiction cease?

CHAPTER XVIII.

Miscellaneous Powers of Congress.

Treason. Congress has power "to declare the punishment of treason; but no attainer of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

This power is indispensable to the preservation of the government; and though it might have been inferred from the power of self defence, which every government is presumed to possess, it is properly inserted in the constitution: and particularly proper was it to insert a definition of the crime, to prescribe the proof requisite for conviction, and to restrain congress in punishing it. The constitution therefore declares:

"Treason against the United States shall consist in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court."

The term "levying war" is adopted from the English statute of treasons, and has that sense in the constitution which it was understood to have in the English statute, from which it was borrowed. An assemblage of men, for a treasonable purpose, such as war against the government, or a revolution of any of its territories, and in a condition to make such war, constitutes a levying of war. To levy war, is to raise, make or carry on war. War

Who has power to declare the punishment of treason? In what does treason consist? What testimony is required to convict of treason? What constitutes the levying of war? Is the actual ap-

can be levied only by the employment of force; troops must be embodied, men must be openly raised; but neither arms, nor the actual application of the force to the object, are indispensably requisite. To march in arms with a force marshalled and arrayed, committing acts of violence, in order to compel the resignation of a public officer, thereby to render ineffective an act of congress, is high treason. When war is levied, all who perform a part, however remote from the scene of action, being leagued in the conspiracy, commit treason. If one advise or command an overt act of treason, he is guilty *accessorialy*.

On the other hand, a mere conspiracy to levy war is not treason. A secret, unarmed meeting of conspirators, not in force, nor in warlike form, though met for treasonable purpose, and enlisted, is not treason; but these offenses are high misdemeanors.

Treason, by the laws of the United States, is punishable with death.

Corruption of blood, by the common law of England, signifies, that a person attainted of felony, forfeits his estate; and that he can neither inherit lands from his ancestors, nor transmit them to his heirs. But the constitution of the United States very properly prohibits this illiberal and unjust practice; and in the exercise of this power, congress has declared, that "no conviction or judgment shall work corruption of blood, or *any forfeiture of estate*;" so that the forfeiture may be omitted, *even during the life of the offender*.

Proof and Effect of State Records. "Full faith and credit shall be given, in each state, to the public acts, re-

plication of force necessary? How is treason punishable? What is meant by *corruption of blood*? Is this allowed by the constitution? What does the constitution provide respecting the proof and ef-

ecords and judicial proceedings of every other state. And the congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be provided, and the effect thereof."

This provision was designed to secure the rights of those who are liable to suffer losses and injustice from the removal of persons and their property into another state; as it was to be presumed that cases of this kind would frequently occur near the borders of states. Congress has, in the exercise of this power, prescribed the manner of authenticating such records, and declared that they shall have such credit in every court within the United States, as they have in the courts of the state from which they are taken.

Admission of New States. "New States may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress."

As the United States, at the time of the adoption of the constitution, possessed a large national territory, and as more might be acquired by cession or otherwise, the power to form new states, and to admit them into the union, was necessary; and it could not with propriety have been vested elsewhere than in the national government.

Disposal of the Territory and other Property. "The congress shall have power to dispose of and make all

effect of state records, &c? What is the object of this provision? What does the act of congress provide on this subject? Under what restrictions may congress admit new states into the Union? Why was this power deemed necessary? By what authority are

needful rules respecting the territory or other property of the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state."

The power of congress to exercise authority over the territory ceded to the United States during the existence of the confederation had been disputed; an express grant of this power was therefore inserted in the constitution. As the general government possessed the right to acquire territory, it should also have the power to govern the same; as the territory so acquired does not become entitled to the right of self-government, and is not subject to the jurisdiction of any individual state.

CHAPTER XIX.

Miscellaneous Powers of Congress—continued.

Guaranties to the States. "The United States shall guaranty to every state in this union, a republican form of government; and shall protect each of them against invasion; and on application of the legislature, or of the executive. (when the legislature cannot be convened,) against domestic violence."

Without this guaranty, the states could not demand from the general government any interference in preserving their constitutions, when threatened by domestic com-

the territory and other public property disposed of? How is this power restricted? Why was this power vested in the government? What do the United States guaranty to every state in the Union?

motions; and the general government could not constitutionally afford assistance to the supporters of the state governments. And without authority to protect the several states against invasion, and aid them in maintaining their republican forms of government, there would be no security to the general government itself. For, should one state after another be permitted to relinquish its republican form of government, the whole system would ultimately be subverted. Every state, however, may make any alteration in its constitution, that shall not change its republican form.

Amendments of the Constitution. "The congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments; which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress: Provided, that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article: and that no state, without its consent, shall be deprived of its equal suffrage in the senate."

It was presumed by the framers of the constitution, that, notwithstanding the care with which it had been prepared, experience would discover it to be imperfect; or that, how well soever it might, at that time, serve all the

Why is this guaranty necessary? How are amendments to the constitution proposed? In what manner are they ratified by the people? The assent of what number of states is necessary to their ratifica-

purposes of government, time and change of circumstances would render some alterations necessary. It was, therefore, requisite that some mode of amending it should be provided. But lest, by such provision, the government should be rendered unstable, by too frequent alterations, modes of amendment were adopted which are calculated to guard against any alteration that is not required to remedy some palpable inconvenience.

The only provisions in the constitution that are not subject to alteration, are those which relate to the importation of slaves, the imposition of capitation and other direct taxes, and equality of suffrage of each state in the senate.

Since the adoption of the constitution, amendments or additions have been, at three different times, proposed by congress, and ratified by the people. The first ten articles of the amendments were proposed at the first session of the first congress, which was begun and held at the city of New York, on the 4th of March, 1789, and were adopted by the requisite number of states. The eleventh article was proposed at the second session of the third congress. And the twelfth article, which changes the mode of electing the president and vice president, was proposed at the first session of the eighth congress. This amendment having been adopted, the 3d clause of the 1st section of the 2d article of the constitution was thereby repealed.

Frequent attempts have been made during the last few years, to propose amendments to the constitution; but such is the veneration with which the people regard the work

tion? Why was not a more easy mode of amendment prescribed? What provisions in the constitution are not subject to alteration? When were the several articles of amendment proposed? What provision in the constitution has been repealed by amendment? Is

of the founders of the government, in consequence of the blessings hitherto enjoyed under it; that such attempts have proved unsuccessful. The people seem disposed to submit to some trifling inconveniences, rather than to give countenance to a spirit of innovation, which, if encouraged, may end in a change of the fundamental principles of the government. Of the twelve articles styled "amendments," which have been incorporated into the constitution since its adoption, it will be seen, that none but the last, (which changes the mode of electing president,) repeals or makes void any part of the constitution originally adopted.

By providing that amendments shall not even be proposed to the people, but by two thirds of both houses of congress, or that a convention for proposing amendments shall not be called by congress, until requested to do so by the legislatures of two-thirds of the several states; and by providing further, that before amendments thus proposed shall be valid, they must be ratified either by the legislatures of three-fourths of the states, or by conventions of delegates chosen by the people of three-fourths of the states; the constitution seems to be amply guarded against unnecessary amendments or mutilations. The approval of the president is not required to an amendment of the constitution proposed by congress.

the approval of the president required to an amendment of the constitution?

CHAPTER XX.

Incidental Powers of Congress.

To the powers delegated to congress by the constitution, is added a general power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the constitution in the government of the United States, or in any department or officer thereof."

The word "necessary," in the foregoing clause, means *needful, essential, conducive to*, and gives congress the choice of the means best calculated to exercise the powers it possesses. Without such a power, either expressed or implied, many of the powers expressly delegated, could never have been carried into effect. Hence congress has power to inflict punishment in cases not specified by the constitution; such power being implied as necessary and proper to the sanction of the laws, and the exercise of the delegated powers:

To exact an oath of office, in addition to the oath of fidelity prescribed by the constitution:

To punish larceny of letters from the post office, or robbery of the mail:

To secure to the United States a priority of payment from the effects of an insolvent debtor. It is provided by acts of congress, that in all cases of insolvency, or where any revenue officer, or other person, becoming indebted

What general power is given to congress by the constitution? What is meant by "necessary," as here used? Why was this power necessary? What are some of the powers implied in this general power, which have been exercised by congress?

to the United States, by bond or otherwise, shall become insolvent, or where the estate of any deceased debtor, shall be insufficient to pay all his debts, the debt due to the United States shall be first satisfied.

Under the general power to pass all laws necessary to carry into execution the powers vested in the government, congress has also exercised the power to create corporations, and establish a bank.

This power was exercised by the first congress under the constitution, by the passing of the act incorporating a national bank, in 1791; and, subsequently, in 1816, by the incorporation of a new bank, after the charter of the first was expired. The constitutionality of this power has, however, been seriously questioned; and its exercise has met with much opposition in congress. And although the opinion of the supreme court has repeatedly been given in accordance with that of the majority of congress; yet the question is by no means settled. It is a question which has received much discussion and investigation, and on which there is still a great difference of opinion. Bills for renewal and incorporation, have several times received the executive veto, under different administrations. And it is admitted by the advocates of this power, that, to justify its exercise in the creation of a bank, such a corporation must be deemed necessary to carry into effect some power vested in the general government.

Internal Improvements. Under the power to establish post offices and post roads, and the power to raise money to provide for the general welfare, as well as the power to

What further incidental power has congress exercised? When was this power first exercised? When was the present bank incorporated? Is this right of congress to create a bank generally admitted? By what judicial authority is this right supported? What power has several times been interposed to prevent acts of renewal and incorporation? Under what constitutional provision, if under

pass all-laws necessary and proper for carrying into execution the powers vested in the general government, congress has, at different times, set apart funds for internal improvements in the states, by means of roads and canals.

It has been the practice to allow to the new states a portion of the proceeds of the sales of public lands, to be laid out in the construction of roads and canals within those states, or leading to them. The Cumberlaud road was constructed under the act of March, 1806, under a covenant made with the state of Ohio, that a portion of the proceeds of the sales of public lands lying within that state, should be applied to the opening of the roads leading to that state, with the consent of the states through which the road might pass. After the expenditures upon that road had exceeded the proceeds of the sales of the public lands in Ohio, a bill passed by both houses of congress, in 1817, appropriating funds for continuing it, was negatived by the president, on the ground that the constitution did not authorize the making of roads and canals, and improving water-courses, through the different states ; nor could the states confer the power. In 1822, a bill appropriating money for repairing this road, and establishing toll gates upon it, was objected to by the president.

Several successive presidents have, at different times, denied the power of congress to pass bills for this and similar objects. But the power to lay out, construct and improve post roads and military roads, and to cut canals through the states, with their assent, for promoting internal commerce, and for the more safe and economical

any, may a bank be created? What are *internal improvements*? Is the power to make internal improvements expressly granted? In what powers is it supposed to be implied? How was the Cumberlaud road authorized to be constructed? What bills relating to this road were negatived? For what purposes may the power to make

transportation of troops and military stores in time of war, is still claimed by congress, and pretty generally conceded. And the right to appropriate money for improvements which are not of a *local* or *state character*, but are of such general importance as to give them a *national character*, was admitted by the president, in his message, containing his objections to a bill that had passed both houses of congress, authorizing subscriptions to the stock of the Maysville turnpike road. It seems fair, therefore, to conclude, from the general practice of the government, that "the action of congress may be applied to those internal concerns which affect the states generally, but not to those which are within a particular state, and which do not affect other states."

"The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

This amendment was added to the constitution as a necessary rule for its interpretation; but the amendment itself is liable to mis-construction. It has been considered as restricting the general government to the exercise of powers *expressed* in the constitution; and as prohibiting the exercise of any *implied* power, by which is meant, a power which is comprised in some other power, or which results from it as a necessary consequence.

By the confederation, each state retained all its sovereignty, and every power, which were "not *expressly delegated* to the United States." This restriction upon the powers of congress, was one of the principal defects of the confederation, and which led to its abolition. It had been

internal improvements be constitutionally exercised? What *character* must they possess? What conclusion on this subject may be drawn from the general practice of the government?

What rule does the constitution contain for its interpretation? What construction has been given to this provision? What is meant

found impossible, in an instrument of this kind, to descend to all the minute details of legislation; as it could not be foreseen what subjects would require the attention of congress. For the purpose, therefore, of giving greater latitude to the powers of the government, the word "expressly" which had been inserted before "delegated," was stricken out and omitted.

It must be presumed, therefore, that this article of amendment was not designed to restrict the powers previously granted by the constitution. By this rule of strict construction, a large proportion of the laws now in operation, would be unconstitutional and void; and "the power to make all laws necessary and proper to carry into effect the powers vested by the constitution in the government," would be useless. Congress has the power "to regulate commerce;" but the power is not *expressly* given to erect break-waters, to build light-houses, and to remove the obstructions in navigable rivers; this power can be derived only by implication, and as necessarily included in the power to regulate foreign and internal commerce. Congress has power to punish certain crimes expressed in the constitution; but it is not to be supposed, that, because these crimes are expressed, congress has not the power of punishing others not expressed. The power to make laws for any purpose whatever, would be wholly nugatory without the power to enact penalties whenever it may be necessary for carrying a measure into effect: yet this power to punish is merely an *implied* power, not *expressly* authorized by the constitution.

It is a general and well known principle, that all bodies politic necessarily possess all the powers incident to a

by an *express* power? An *implied* power? To what powers was congress confined by the confederation? What would be the effect of a strict construction? What powers do corporations necessarily possess?

corporate capacity, without an express declaration to that effect: and the amendment in question could not, therefore, have been intended to abridge any power granted by the constitution.

CHAPTER XXI.

Restrictions on the Powers of Congress.

“THE migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed by such importation, not exceeding ten dollars for each person.”

This clause has reference to the slave trade which prevailed extensively in the United States when the constitution was framed. It would probably have been impossible to procure its ratification by the number of states required for its establishment, without recognizing the right of the states for a period to continue the importation of slaves. However, by yielding the right to prohibit such importation for a specified period, it doubtless contemplated the prohibition after that period should have elapsed.

Laws have accordingly been passed, from time to time, for the suppression of the foreign slave trade. [See *Slave Trade*, pages 144 and 145.] It is indeed to be regretted, that the great and invaluable charter of American liberty,

Who are meant by the persons whose importation should not be prohibited? To what does this provision have reference? Is the importation of slaves still continued? When was it discontinued?

has ever sanctioned this horrid traffic; and it is somewhat remarkable, that a provision of this character should be adopted by a people that had declared it be a self-evident truth, "that all men are created *free and equal*," and "endowed by their Creator with the *unalienable* rights of life, liberty, and the pursuit of happiness;" and who had solemnly declared any form of government to be unjust, that did not "derive its powers from the *consent of the governed*."

This acknowledgment of the right of man to hold, *as property*, his fellow man, is incompatible with a just sense of freedom. But while we cannot justify this principle, let us not condemn the motives of those who allowed this provision to be incorporated in the constitution; as it is not to be doubted, that they aimed, in all their deliberations and labors, at the greatest good of the whole nation. And it certainly affords cause for gratulation, that measures were so promptly adopted to abolish the foreign slave trade, at the earliest period permitted by the constitution.

"The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it."

Habeas corpus, (Latin,) signifies, have the body. If a person has been illegally deprived of his liberty, he may petition a court or judge, who issues a writ addressed to the party complained of, commanding him to have the body of the person confined before the judge or court. If, upon inquiry, the imprisonment is found to have been illegal, relief is granted. To the privilege of this writ, and to the right of trial by jury, the colonists were entitled. These are among the greatest privileges enjoyed under a free government, as they afford the most effectual security to the right of personal liberty.

What does *habeas corpus* signify? What is the course of proceed-

"No bill of attainder, or ex post facto law shall be passed."

Bills of attainder are acts of a legislature, by which capital punishments are inflicted upon persons pronounced guilty, without trial or conviction in the ordinary course of judicial proceedings. An *ex post facto* law is a law that declares an act to be criminal which was not so before the law was passed; or that renders an act punishable in a manner in which it was not punishable when it was committed.

"No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken."

Capitation signifies enumeration of heads. A capitation tax, usually called a *poll* tax, is therefore a tax laid on each person. *Poll* is said to be a Saxon word, meaning head; and, by a slight change, it is used also to signify an election, because the result depends on the number of persons that act in it.

"No tax or duty shall be laid on articles exported from any state. No preference shall be given, by any regulation of commerce or revenue, to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear, or pay duties in another."

A uniform rate of duties or taxes throughout the states, was deemed requisite to ensure domestic peace and harmony. The levying of higher duties in the ports of one state than in those of another, would prove a fruitful source of jealousy and dissatisfaction among the several members of the union. Hence the propriety of this constitutional restriction.

ing with a writ of habeas corpus? What are *bills of attainder*? What is an *ex post facto law*? What does *capitation* mean? What

"No money shall be drawn from the treasury, but in consequence of appropriations made by law: and a regular statement and account of the receipts and expenditures of all public money, shall be published from time to time."

As congress is immediately responsible to the people, it is properly entrusted with the disposal of the public treasure. This provision was supposed, therefore, to be most likely to secure a faithful application of the public money. And to perfect the system of accountability, the public accounts are required, from time to time, to be submitted to the inspection of the people themselves. The experience of former governments had shown that the national treasury cannot be too strongly guarded.

"No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state."

This clause was evidently designed to guard against foreign influence in the administration of the government, and to prevent the introduction of customs that might, in time, diminish that respect for republican simplicity, which formed so conspicuous a trait in the American character.

is a capitation, or poll tax? What is a *poll*? Why should duties in all cases be uniform in the several states? What is the object of restrictions upon the appropriation of money? Why are titles of nobility, &c. forbidden?

CHAPTER XXII.

Restrictions on the Powers of Congress—continued.

“CONGRESS shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press.”

Among the “unalienable rights,” with which men are created, is *religious liberty*. This liberty has been denominated “the liberty of conscience,” and “the rights of conscience.” It is defined to be, “the liberty which a man has of discussing and maintaining his religious, opinions, and of worshipping God in that way and manner, which he believes in his conscience to be most acceptable to his Maker, without being liable to any degradation, penalties or disqualifications, civil or political.”

A large portion of the early population of this country was composed of persons who had come hither, to escape the restrictions and disqualifications imposed, by the laws of the parent country, on dissenters from the established church. To avoid the evils which were known uniformly to flow from an alliance between the church and the state, and to secure to all the full enjoyment of religious freedom, all interference by the government in matters of religion, abridging in any degree the rights of conscience, by giving preference to any religious sect, is expressly prohibited by the above provision.

Both religious and civil institutions are the most safe, as well as the most prosperous, where religion derives no

What is provided respecting religion, freedom of speech, and of the press? What is religious liberty denominated? How defined? What general objects are secured by this restriction upon congress?

other support from government than protection in its free exercise. This, it requires; and religious liberty cannot be said to exist, where the laws merely tolerate religion, but do not by penal sanctions, protect men in the exercise of its duties.

Freedom of speech, and of the press, are equally necessary to the existence of a free state. The most odious restrictions had been, in many countries, laid upon the press. It was regulated by prohibitions and licenses from the government. New publications were not allowed to be issued, until they had been approved by licensers. But as such restrictions were deemed incompatible with all just ideas of freedom, the liberty of the press and of speech was guarantied to every citizen; he being amendable to the laws for the abuse of this liberty.

Of the restrictions remaining unnoticed, is that which preserves to citizens the right of *trial by jury*. This right is enjoyed in all criminal prosecutions, and in suits at common law, where the value in controversy shall exceed twenty dollars; and is secured by the two following articles of amendment:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence."

How far should legislation on this subject extend? How had the press been restricted in other countries? Is it entirely unrestrained in this country?

"In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by jury shall be otherwise re-examined in any court of the United States than according to the rules of common law."

The institution of trial by jury, is derived from the English laws. Trial by jury was recognized in criminal suits in England, as early as about the beginning of the twelfth century; but in civil suits it seems not to have reached its present form, until near the middle of the thirteenth century. The jury system, in its present improved state, is justly considered the "great palladium of liberty." It was one of the most distinguished privileges enjoyed under the British constitution; for as every one was tried by his peers, the meanest subject was as safe as the greatest. It was regarded by the colonists, as the most valuable civil privilege which they, as British subjects, possessed; and the infringement of this right constituted one of the grievances enumerated in the declaration of independence, as justifying the revolution.

A jury usually consists of twelve men, (in some cases of a great number,) who are sworn to deliver a truth upon such evidence as shall be delivered to them touching the matter in question. No person can be put on trial for a crime, until a grand jury shall have declared, after hearing the evidence against him, that he ought to be tried. Such declaration is founded upon this presumption that he is guilty. He is then put upon trial; and the unanimous verdict of a jury of twelve men, (called a *petit* jury,) is necessary to convict him. A two-fold security to the lib-

Whence is the institution of juries in this country derived? At how early a period was trial by jury recognized in England? Of what number does a jury usually consist? What is the duty of a grand jury? By what jury is the criminal tried? How many must

erties of the people is thus provided by this mode of trial in criminal cases.

In some of the states in the union, parties to civil suits, in which the damage claimed is less than twenty dollars, are not allowed the privilege of juries. It has been well remarked, "that it is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of twelve of his neighbors and equals."

CHAPTER XXIII.

Restrictions on the Powers of the States.

"No state shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility."

The restrictions which are here and elsewhere imposed upon the states, are indispensably necessary to secure to the country the blessings of union. Were every state at liberty to enter into treaties or alliances with foreign states or with other members of the union, it is easy to foresee the evils and dangers that would result from such

be agreed in order to conviction or judgment?

What restrictions are imposed, in this clause, upon the states?—For what purpose are they necessary? Why may not a state grant

an exercise of this power. And with the power to grant letters of marque and reprisal, a state might involve the whole union in war, as this measure is usually followed by open hostilities.

To avoid the inconveniences that would arise from coins so various in value as might be expected if each state were permitted to coin money, and to regulate its value, this power was prohibited to the states, and granted exclusively to congress.

Bills of credit are declared to mean promissory notes, or bills issued exclusively on the credit of the state, and which the faith of the state only is pledged to pay. The prohibition does not, therefore, apply to the notes of a state bank, drawn on the credit of a particular fund set apart for the purpose. The losses sustained previously to the adoption of the constitution, from the effects of paper money, rendered this restriction upon the powers of the states necessary, to prevent similar effects; while the fluctuations in the value of paper money seemed to require that gold and silver only should be made a tender in payment of debts.

Laws impairing the obligation of contracts are inconsistent with the secure enjoyment of the right of property, and the fundamental principles of the social contract. The power to pass such laws is therefore properly prohibited to the states. A state legislature may alter or modify public corporations, such as counties, towns and cities, provided the property therein be secured to those who originally possessed it; but such legislature cannot repeal statutes creating private corporations, or dispose of the property of the corporators. A charter from the British

letters of marque and reprisal? Why restricted as to coining money? What are *bills of credit*? Why are the states prohibited from emitting them? What is meant by *legal tender*? Why are

crown to the trustees of Dartmouth college before the revolution, has been declared to be a contract within the meaning of the constitution. The supreme court held that the college was a private corporation; and that the act of the legislature of New Hampshire, materially altering the charter without the consent of the corporation, was a law impairing the obligation of a contract, and was therefore unconstitutional and void.

"No state shall, without the consent of the congress, lay any impost duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the nett produce of all duties and imposts laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay."

[The objects of the several restrictions in the above clause of the constitution, may be learned by reference to those chapters, on "the powers of congress," in which these subjects are treated of.]

all laws prohibited which impair the obligation of contracts?—
What power has a state legislature as to corporations?

CHAPTER XXIV.

Executive Power.—President's Term of Office—Mode of Election—Qualifications.

“THE executive power shall be vested in a president of the United States of America.”

The object of the executive department is the execution of the laws; and to ensure promptitude, decision, and force, in the administration of this department, the executive authority is limited to a single person. Experience had convinced the framers of the constitution of the inefficiency and weakness of a compound executive. The project of executive councils had been tried, and abandoned, and single executives were created. Unity increases not only the efficacy, but the responsibility of the executive power. As every act can be traced and brought home upon the proper agent, there will be less temptation to depart from duty, and greater solicitude for reputation, than when there are partners to share the public censure, or to divide the public confidence.

When a law has been duly made and promulgated, it is the duty of the executive officer to see that it be faithfully executed. It is not for him to deliberate and decide upon the wisdom or expediency of a law, after it has passed through all the forms of deliberation prescribed in the constitution. It should then receive prompt obedience, until repealed by the legislature, or pronounced by the judicial department to be repugnant to the constitution.

In what officer is the executive power vested? What is the object of this department? What particular quality is essential to this department? Why? What is the duty of the president re-

The president shall hold his office during the term of four years, and shall be elected with the vice president, who is chosen for the same term.

It is provided by law, that the term of four years for which a president and vice president shall be elected, shall, in all cases, commence on the fourth day of March, next succeeding the day on which the votes of the electors shall have been given. This day was probably fixed upon for the commencement of the presidential term, because the term for which the house of representatives and one third of the senate are elected, expires on the third day of March, in every second year; and the term of each new congress consequently begins on the fourth of March.

The term for which the president is elected, is deemed sufficiently long for the purpose of making him feel firm and independent in the discharge of his duties, and to give stability to his administration; and yet short enough to place him under a due sense of dependence upon the public approbation. The president may be re-elected after the expiration of the term for which he was elected; but no one has yet consented to be a candidate for a third election.

For the election of president, "each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives, to which the state may be entitled in the congress. But no senator or representative, or person holding any office of trust or profit under the United States, shall be appointed an elector."

specting the laws? For what term is the president elected? On what day of the year does his term commence? In what manner are electors of president chosen? What number does each state choose? What persons may not be chosen? What different

The manner of appointing electors is not uniform throughout the states. In some of the states, the electors are appointed by the legislature. In others, they are chosen by districts. By this mode, a number of electors, equal to the number of members of the house of representatives, to which a state is entitled, are chosen by the people in the same manner in which representatives are elected. These electors, so chosen, then meet, and choose the remaining two electors, corresponding with the number of senators to which the state is entitled in congress. Another mode, and that which prevails at present in a majority of the states, is by general ticket. According to this system, the names of a number of candidates, equal to the whole number of electors to be chosen, are placed on a single ballot; and such number of candidates are voted for by each voter throughout the state.

A person holding an office of trust or profit under the United States, is rendered constitutionally ineligible as an elector, in order to prevent the person in office from having an improper influence in procuring his re-election, by his ordinary agency in the government. Persons thus holding offices under the government, whose continuance in such offices depends on the will of the executive, if chosen to be electors, would be tempted to vote for that candidate for president, whose favor they would be most likely to secure, without due regard to the fitness of such candidate.

[For mode of election, see 12th article of amendments.]

“The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.”

modes of choosing electors are in use? What persons are ineligible as electors? Why are they disqualified? In what manner do the electors choose the president? When must the electors be cho-

Congress has enacted, that the electors shall be chosen within thirty four days preceding the first Wednesday in December, in every fourth year succeeding the last election; and that, on the said first Wednesday in December, the electors shall meet at such place, in each state, as the legislature thereof shall have directed. The same act directs, that the electors in each state shall make and sign three certificates of all the votes by them given, and shall seal up the same. One of these certificates is directed to be sent by a person duly appointed by them for that purpose, to the president of the senate, at the seat of government, before the first day of January next ensuing. Another of these certificates is ordered to be forwarded, by the post office, also directed to the president of the senate; and the other certificate is to be delivered to the judge of the district in which the electors shall assemble. The day appointed for opening the certificates and counting the votes, is the second Wednesday in February succeeding the election.

[Two cases have occurred, under the constitution, in which the election has devolved on the house of representatives, the one in 1801, and the other in 1824.]

"No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president: neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States."

These restrictions are deemed essential to the safety of the government. As the president is required to be a na-

sen? When do the electors meet to give their votes? What does he law further direct them to do? On what day are the votes counted? What are the qualifications required of a president?—

tive citizen of the United States, ambitious foreigners cannot intrigue for the office. This qualification of birth cuts off all inducements from abroad to corruption and negotiation. The age required, is sufficient for him to have formed his public and private character; and a long domestic residence is intended to afford his fellow citizens the opportunity to attain a correct knowledge of his principles and capacity, and to enable him to acquire habits of attachment and obedience to the laws, and of devotion to the public welfare.

“In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may, by law, provide for the case of removal, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president; and such officer shall act accordingly, until the disability be removed, or a president shall be elected.”

Congress has provided by law, that, in case these supposed vacancies shall happen, the president of the senate *pro tempore* shall act as president; and, in case there should be no president *pro tempore*, the speaker of the house shall so act, until the vacancy shall be supplied. And as it may become a question on whom the office would devolve after the expiration of the congress for which the speaker was chosen, it is usual for the vice president to withdraw from the senate previously to the adjournment of the session, to afford an opportunity to the senate to choose a president *pro tempore*, who would, in that case, act as president.

Why are these restrictions deemed necessary? In what case does the vice president officiate as president? Who acts when the vice president is absent or disabled? What officer is substitute for the president of the senate *pro tem*? How is a substitute for the speak

If the vice president succeed to the office of president, he continues in it till the expiration of the term for which the president was elected, unless the temporary disability of the president be sooner removed. If both offices should be vacant, the law makes it the duty of the secretary of state to cause notice to be given to the executive of every state, and published, ordering an election for the appointment of presidential electors, who shall elect a president.

"The president shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive, within that period, any other emolument from the United States, or any of them."

As it is a fundamental principle of our government, that the several departments should be kept separate and distinct, the support of the president was secured by a constitutional provision, in order to preserve the due independence of the executive department; which could not be expected, if the legislature could control at its discretion, the salaries of the executive and judicial officers. The compensation provided by law for the president, is twenty five thousand dollars a year, with the use of buildings, furniture, and other effects belonging to the United States; and that of the vice president is five thousand dollars a year, payable at the treasury.

"Before a president shall enter on the execution of the duties of his office, he shall take the following oath or affirmation :

"I do solemnly swear (or affirm) that I will faithfully

er provided? How may casual vacancies in the offices of president and vice president be filled? What is the object of a *constitutional* provision for the support of the president? What compensation does he receive? What the vice president?

execute the office of president of the United States; and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

It is the practice, under the constitutions, both of the United States, and of all the states, for legislators, judges, jurors, witnesses, and other civil, as well as military officers, to bind themselves under the solemnity of an oath, to discharge their trusts and duties faithfully. An oath supposes a belief that there is a God, who will hereafter reward the worthy and punish the wicked. There are persons who believe that all oaths are forbidden: they simply *affirm*, or declare. But a false affirmation subjects the person so affirming, to all the pains and penalties of perjury.

CHAPTER XXV.

Powers and Duties of the President.

"THE president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States"

The command and application of the public force to execute the laws, maintain peace, and resist foreign invasion, are powers of an executive nature, and require the

What is required of the president before he enters on the duties of his office? What is an *oath*? What does it pre-suppose? What is the practice of those who believe oaths to be forbidden?

What power has the president in relation to the army and navy?

exercise of qualities characteristic of this department; in every well organized government, these powers have therefore been appropriated to the executive.

"The president may require the opinion, in writing, of the principal officers in each of the executive departments, upon any subject relating to the duties of their offices."

As the several departments are established to aid in the administration of the laws, and as the duties of the president make it necessary that he should be kept acquainted, as fully as possible, with the business of every branch of the executive department; it is proper that the principal officers in each should give to the chief executive officer, such information and assistance, as may be at any time required of them.

"The president shall have power to grant reprieves and pardons, for offences against the United States, except in cases of impeachment."

The necessity of a pardoning power, arises from the imperfection of human justice. Under the most correct administration of the law, men are sometimes liable to suffer from revengeful accusers, the inaccuracy of testimony, or the fallibility of jurors. But there are cases in which policy and humanity require that punishment should be remitted, though the crime should be clearly ascertained. The power of pardon vested in the president is unlimited, except in cases of impeachment. He is prevented, in that case, from screening public officers, with whom he might have formed a corrupt coalition, or who might be his particular favorites or dependants.

"He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur."

Why are the opinions of the executive officers required? From what arises the necessity of the pardoning power? How is this

A *treaty* is a bargain or agreement between nations on any matter that concerns them. It is in this manner that civilized nations settle their disputes, and agree upon the terms of peace at the conclusion of war. Commercial intercourse between nations is sometimes regulated by treaty. The terms of a treaty are agreed on by the ministers of each party, who put their agreement in writing; two copies of which are made, signed and sealed; and one of them is sent to each of the respective sovereigns, by whom the contract is either ratified or rejected. Both parties must ratify, or there is no treaty.

In a monarchical government, the power of ratifying and rejecting treaties is exercised by the king. In the United States the power of making treaties is confided to the president and senate. As treaties are the supreme *law* of the land, this power is considered by some more properly to belong to the legislature in free governments. But as secrecy and despatch in negotiations may become necessary, in order to take advantage of a sudden and favorable turn of public affairs, this power is properly confided to the executive. And yet, to place without limitation, in the hands of the president alone, so important a power, was not deemed altogether safe. The senate was therefore wisely associated with the president in the exercise of this power. Its members are easily assembled, and are generally governed by steady, systematic views, and a due regard for national character, and act with promptitude and firmness.

The president "shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers, and consuls, judges of su-

power limited? What is a *treaty*? What matters are regulated by treaty? How are treaties made? In whom is this power vested in the United States? For what reasons is the senate, more prop-

preme court, and all other officers of the United States whose appointments are not herein, (in the constitution,) otherwise provided for, and which shall be established by law. But the congress may, by law, vest the appointment of such inferior officers as they think proper, in the president alone, in the courts of law, or in the heads of departments."

The appointment of subordinate officers of the government, concerned in the administration of the law, belongs with great propriety to the president, who is in a great degree responsible for the faithful execution of the laws. The association of the senate with the president in the exercise of this power, affords a salutary check upon the misinformation or errors of the president; whilst it does not materially lessen his responsibility, or his liability to the public censure or approbation; as he still retains the right of selection and nomination, and as the senate seldom rejects a nomination, unless it be highly exceptionable.

"The president shall have power to fill up all vacancies that happen during the recess of the senate, by granting commissions which shall expire at the end of their next session."

This power is essential to prevent the inconvenience, and detriment to the public interest, which might be occasioned by vacancies in office. But the same reasons for which the senate is made a part of the appointing power, require that commissions granted by the president should not extend beyond the close of the next session of the senate; otherwise the president might continue men in

erly than the house, associated with the president? How are executive officers nominated and appointed? Why are the advice and consent of the senate, deemed essential? What power has the president in regard to vacancies? What are vacancies that

office at his own pleasure, for an unlimited period, howsoever incompetent they might be. Vacancies that *happen*, are those which occur from death, resignation, promotion or removal; and the power has been questioned of appointing ambassadors to foreign nations, during the recess of the senate, where no such appointments had before been made; as, in that case, no vacancy would have *happened*. And if the senate is in session when a new office is created by law, and a nomination is not then made by the president, he cannot appoint to such office during the recess, as the vacancy does not then happen.

The power of the president to *remove* an executive officer has also been questioned, as no such power is expressly authorized by the constitution; but as it does not declare that any but judicial offices may be held *during good behavior*, it is presumed that others are held during the pleasure of the appointing power.

“He shall from time to time give to the congress information of the state of the union; and recommend to their consideration such measures as he shall judge necessary and expedient.”

The president delivers to congress annually, at the opening of every session, a *message*, giving information respecting the state of the union, its internal affairs, and its relations with foreign powers. It also recommends to congress the adoption of such measures as the public good may be supposed to require. *Special messages* are also communicated to congress, from time to time, on subjects as they arise, or in obedience to calls of congress for information.

“He may, on extraordinary occasions, convene both

happen? May the president *remove* an officer? From what is this power inferred? What does the president's message contain? What is a *special message*? What other duties are required of the presi-

houses, or either of them; and, in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed; and shall commission all the officers of the United States."

The propriety of committing these simple duties to the president, is self-evident: they are in their nature duties that pertain to the executive department of the government.

The trusts committed to the president are various and important; and their proper or improper exercise must have a sensible effect, either for good or for evil, upon the general welfare. In view of the magnitude of the executive trust, the constitution has made liberal provision to prevent its abuse: first, in the mode of the president's appointment; which seems to afford a sufficient safeguard against the election of incompetent men, as well as against the successful employment of undue means to procure an election: secondly, by the limitation of office; he being made subject to removal at the end of four years: thirdly, by the precise and definite limitations imposed upon the exercise of his power: and lastly, by providing for his removal from office, by impeachment, at any time, for misdemeanor or mal-administration.

But to all these safeguards and restrictions, should be superadded unremitting watchfulness on the part of the people. No barriers which the constitution interposes, nor all the restraints which have been, or that can be, imposed by law, will be sufficient to protect the liberties of the people, if the public eye cease its supervision over

dent? By what provisions in the constitution, is the abuse of executive power guarded against? .

the conduct of those entrusted with the exercise of the powers of government; and if the sovereign people be not disposed to call those to account who abuse the trusts confided to them.

CHAPTER XXVI.

Executive Auxiliaries.—Department of State—of the Treasury—of War—of the Navy.

To aid the president in the administration of the government and laws of the United States, the following departments have been established, viz: The departments of state, of the treasury, of war, of the navy, of the post office: the officers of these departments, together with the attorney general, form the principal home ministers of the executive, and constitute what is called "the cabinet." The foreign ministers, and agents of a permanent character, are ambassadors, charges des affaires, and consuls.

Department of State. This department existed for many years previously to the adoption of the constitution. It was called "the department of foreign affairs," and the chief officer was entitled "the secretary of the department of foreign affairs." By the act of 1789, it was denominated "the department of state," and the principal officer therein, "the secretary of state;" who performs such duties as are committed to him by the president, rel-

What auxiliary departments have been established to aid in the administration of the government? What are the heads of those departments called? What are the duties of the secretary of state?

ative to foreign intercourse, and to public ministers and consuls; or to negotiations with foreign powers, to memorials and other applications from foreign ministers or other foreigners; or to such other matters as shall be assigned to his department by the president of the United States. As the official opinions of the executive are expressed, in all diplomatic intercourse, through this officer, he is sometimes called, the diplomatic agent. *Diplomacy* means, the power of negotiation; or, the customs, rules and privileges of ambassadors, or other representatives at foreign courts.

The secretary of state keeps the seal of the United States; he makes out records and seals all civil commissions to officers appointed by the president, by and with the advice and consent of the senate, or by the president. He causes the laws, and all treaties ratified by the United States, after their passage, to be published in the newspapers designated for that purpose, not exceeding three in each state and territory. He causes to be published, at the close of every session, eleven thousand copies of the acts of congress, and to be distributed among the public officers of the government, and among the several states. There are many duties of a similar nature which devolve upon this officer. The patent office is connected with this department. The secretary of state employs a chief clerk, and a number of subordinate clerks, whose compensation is fixed by law. The salary of the secretary of state is six thousand dollars a year.

Department of the Treasury. This department existed under different forms during the confederation, and for many years after the adoption of the constitution. It re-

What is *diplomacy*? What other duties does this officer perform?
What is his salary? What are the officers of the treasury depart-

ceived its present organization, by the act of March, 1817. The officers of this department are, a secretary, who is the head of the department, two comptrollers, five auditors, a treasurer, a register, a commissioner of the land office; each of whom is allowed one chief clerk, and such additional clerks as the business of their respective offices renders necessary.

The secretary of the treasury prepares, and lays before congress, at the commencement of every session, a report of the finances, containing a statement of the public revenue and expenditure during the past year, the value of the imports and exports for the same period, and estimates of the revenue and expenditures for succeeding years, and plans for improving the revenues. He also makes annually a statement of appropriations of money, and of sums remaining in the treasury: he superintends the collection of the revenue, and provides for building and keeping in repair, the light houses, beacons, buoys, and public piers in the several states; and performs such other duties as appertain to his office. His salary is six thousand dollars a year.

The business of the comptrollers and auditors, relates chiefly to examining and settling the public accounts, and to the recovery of debts due to the United States: The treasurer receives and keeps the money of the United States, and pays out the same on warrants drawn by the secretary of the treasury; and on the third day of every session, lays before congress copies of all accounts settled with the comptroller, and a true account of the state of the treasury. The register annually prepares statistical ac-

ment? What are the duties of the secretary of the treasury? What is the amount of his salary? What are the duties of the subordinate treasury officers respectively? What restriction is imposed upon the officers of the land office?

counts of the commerce of the United States with foreign countries, for the preceding year, to be laid by the secretary of the treasury before congress at every session. Such accounts shall state the goods imported and exported, and the navigation employed in the foreign trade. The commissioner of the land office superintends and performs such acts as relate to lands patented or granted by the United States. No person holding an office in this branch of the department is allowed to have any interest in the purchase of any public land; nor shall he take any fee or emolument for negotiating or transacting the business of the office.'

The laws regulating the treasury department prescribe the manner of keeping, settling and collecting the public accounts. In cases of insolvency, debts due the United States on revenue bonds, must be first satisfied. The United States cannot be sued. A creditor who is refused payment must apply to congress.

Department of War. The secretary of war performs such duties as relate to military commissions, or to the land forces, and warlike stores of the United States; or to such other matters respecting military or Indian affairs, as shall be assigned to his department. He is required to make an annual statement to congress of the expenditure and application of moneys drawn from the treasury for his department, and to make such suggestions to congress relative to the condition of his department, as he shall think proper. His salary is six thousand dollars a year.

In this department, is transacted the business relating to military pensions. A *pension* is a yearly allowance to a person by the government, in consideration of past services. Laws have existed, from the first organization of

What are the duties of the secretary of war? What is his salary? What other business is done in this department? What is a *pension*?

the government, granting pensions to persons disabled in the war of the revolution, in such manner as to render them unable to procure a subsistence by manual labor. After the close of the late war, persons were added to the pension list, who had been disabled by wounds while in the service during the late war. Pensions were also allowed, by act of 1818, to all the soldiers of the revolution, who had served nine months or longer in such war, and who were in necessitous circumstances. By act of 7th June, 1832, the pension list was so extended as to include all who had served in the army or navy, during the war of the revolution, for six months at least.

Department of the Navy. The secretary of the navy executes the orders of the president, relative to the procurement of naval stores and materials, and the armament, equipment and employment of vessels of war, as well as all other matters relating to the naval establishment. His salary is six thousand dollars a year.

Three officers are appointed by the president and senate, who constitute a board of commissioners for the navy; and who discharge the ministerial duties of the office of the secretary, and furnish all estimates of expenditures which the several branches of the service may require. Their salaries are three thousand five hundred dollars a year, each.

sion? To what classes of persons were pensions confined before 1832? To what class were they then extended? What are the duties of the secretary of the navy? What is his salary? What is the duty of the navy commissioners? What are their salaries?

CHAPTER XXVII.

*Post Office Department—Attorney General—Foreign
Ministers, &c.*

THE post master general has the direction of the affairs of the department; he has two assistants, and such clerks as may be necessary to perform the business of his office. He establishes post offices, and appoints post masters, and all other persons employed in any of the departments of the general post office, and gives instructions relative to their duties. He provides for carrying the mail on all post roads, as often as he may think proper; and he pays all expenses of the department.

The post master general gives twelve weeks previous notice, in one newspaper published at the seat of government, and in one or more in the state in which contracts are to be made for transporting the mail, that such contracts are to be made. Those who wish to engage to transport the mails on any of the routes advertised, send their proposals to the post master general, stating the lowest sum for which they will agree to carry the mail. He that proposes to carry for the least sum, has the contract.

The rates at which letters, newspapers, pamphlets, &c. are carried, are established by law, and are as follows:

For every letter composed of a single sheet of paper, not exceeding thirty miles, six cents: over thirty, not exceeding eighty, ten cents: over eighty, not exceeding one hundred and fifty, twelve and a half cents: over one hun-

What are the duties of the post master general? How are contracts made for procuring the conveyance of the mail? What rates are established by law for conveying letters? How is letter

dred and fifty, not exceeding four hundred, eighteen cents and three fourths: over four hundred, twenty-five cents.

For every double letter, or letter composed of two pieces of paper, double those rates: for every triple letter, three times those rates: and for every packet of four or more pieces of paper, and weighing one ounce, four times those rates; and in proportion for all greater weights. No packet of letters transported by water mails, are charged with more than quadruple postage, unless the same contain more than four letters; and no post master may put into the mail any packet of more than three pounds weight.

Every four folio pages, or eight quarto, or sixteen octavo, or twenty four duodecimo pages, or pages of less size than that of a pamphlet or magazine, are considered a sheet. The rates of postage on newspapers, pamphlets, magazines, &c. are as follows:

On every newspaper carried any distance within the state, the postage is one cent: if carried over one hundred miles, and out of the state in which it is mailed, one cent and a half.

On periodical pamphlets and magazines, such as are issued in numbers at regular intervals, carried not over one hundred miles, one and a half cents a sheet: over one hundred miles, six cents.

Any memorandum or writing on a newspaper transmitted by mail, is charged with letter postage: but the publisher of a newspaper may send a printed or written notice to a subscriber, stating the amount due on his subscription; for which notice there shall be charged the same postage as for a newspaper.

charged when letters are not single? How is postage rated on newspapers, pamphlets and magazines? What constitutes *periodical* pamphlets? What officers receive their letters and papers free?

The following officers are allowed to send and to receive their letters and packets free of postage:

Every post master, provided each of his letters or packets do not exceed half an ounce in weight; every member of congress, provided each letter or pamphlet, (except documents printed by order of congress,) do not exceed two ounces in weight, during their attendance in any session of congress, and sixty days before and after such session; and all the civil officers at the seat of government: and each may receive newspapers free of postage, provided that no post master shall receive, free of postage, more than one daily newspaper, or what is equivalent thereto; nor shall members of congress receive newspapers, free of postage, after their privilege of franking shall have ceased. To *frank*, means to exempt a letter or packet from postage. The person entitled to this privilege, writes on the outside of the letter or packet, his name and office; and the same is sent free.

Every printer of a newspaper may send one newspaper to every other printer of a newspaper, free of postage.

At the end of every quarter, every post master is required to publish in a newspaper, at or nearest the place of his residence, for three successive weeks, a list of all the letters remaining in his office, or shall cause a number of such lists to be posted up, in his vicinity; and at the expiration of the next three months, shall send such of the said letters as then remain on hand, as *dead letters*, to the general post office, where they shall be opened and examined; and such of them as shall be found to contain any matter of value, are returned to the writers thereof.

Under what restrictions? What other persons receive newspapers free? How, and when, are letters advertised? How are dead letters disposed of? What commission do post masters re-

Post masters are allowed, as a compensation for their services, a commission on letter postages by them received, not exceeding the following several rates on the amount received in one quarter:

On a sum not exceeding one hundred dollars, thirty per cent.:

On any sum over and above the first hundred dollars, and not exceeding four hundred, twenty-five per cent.:

On any sum over and above the first four hundred dollars, and not exceeding two thousand four hundred, twenty per cent.:

On any sum over and above the first two thousand four hundred dollars, eight per cent.:

On moneys received for the postage of newspapers, magazines and pamphlets, a commission of fifty per cent.:

Post masters whose compensation does not exceed five hundred dollars a quarter, are allowed two cents for every free letter delivered out of their offices. Whenever the yearly emoluments of any post master exceed two thousand dollars, over and above all the expenditures incident to his office, the surplus shall be paid over to the department.

The post master general renders to the secretary of the treasury, a quarterly account of all the receipts and expenditures in his department. And returns are in like manner made to the post master general, by all the deputy post masters. The salary of the post master general is three thousand five hundred dollars a year.

ceive on moneys collected by them, for their compensation? To whom, and when, does the post master general render accounts? When, and to whom, do the deputy post masters make returns? What is the post master general's salary?

Attorney General. The act of 24th September, 1789, provides for the appointment of a meet person, learned in the law, to act as attorney general of the United States, who shall be sworn to a faithful execution of his office. His duty is to prosecute and conduct all suits in the *supreme* court, in which the United States shall be concerned, and give his advice upon questions of law, when required by the president, or when requested by the heads of any of the departments. His salary is three thousand five hundred dollars a year.

Executive Officers abroad. It is the practice of each civilized nation, to send one of its citizens, in time of peace, to reside at the seat of government of other nations. A person thus sent, is sometimes called *ambassador*. *Ambassadors* are either *ordinary*, or *extraordinary*. *An ambassador extraordinary*, is a person sent on some particular occasion, and who retires as soon as the affair on which he was sent is despatched. *An ambassador in ordinary*, is one who constantly resides at a foreign court, to maintain a good understanding, and to look to the interests of his prince or nation.

The agent sent by the United States to reside at a foreign court, is generally called *minister*. He is the representative of the government to which he belongs; and his duties depend on the instructions given him. *Ministers* of the United States are allowed nine thousand dollars a year for their personal services and expenses. *A charge des affaires*, (French,) meaning *charge of affairs*, is an agent of the United States, of an inferior grade, sent abroad, charged with the management of the affairs of his nation. He is allowed for his services and expenses, four

What are the duties of the attorney general? What is his salary? What are *ambassadors*? Where do they reside? What are their duties? What are the names of the different foreign agents of the U.

thousand five hundred dollars a year. But the president may allow to a minister or charge des affaires, on going out of the United States, in addition to his salary, an *out-fit*, equal in amount to one year's full salary.

Consuls are commercial agents residing in foreign sea-ports. Their duties are various. They receive the protests or declarations which captains, passengers, and merchants, citizens of the United States, may make there. They dispose of the personal estate left by citizens of the United States, who die within their consulates, leaving no legal representative, or partner in trade, to take care of their effects. They receive the registers, sea letters, or passports, of masters of United States' vessels arriving at the port where they reside. Their business is to render any assistance which merchants or ship masters of their own country may need; and they grant all certificates required by commercial regulations, or by treaty. Consuls are either paid a salary, or depend on fees fixed by law for each of the several duties they are required to perform.

CHAPTER XXVIII.

Of the Judicial Power.

THE judicial power is that branch of the government, to which the administration of justice, and the interpretation of the constitution and the laws, are entrusted; and no government can be complete, without such a distinct

States? What are the duties of a minister? Of a charge des affaires? Of a consul? What are their respective salaries?

and independent department. Without this power, a constitution could not be carried into effect; and yet, to vest the power of interpreting and applying the laws, together with the power of making and executing them, in a single man or body of men, would constitute an absolute despotism, subject to no restraint but that of brute force.

The constitution declares, that "the judicial power of the United States shall be vested in one supreme court, and in such inferior courts, as the congress may, from time to time, ordain and establish. The judges both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office."

In organizing the judicial department, it was deemed of the first importance to render the judges independent. To secure this object, provision has been made, (1.) in the mode prescribed by the constitution for their appointment. To fulfil the duties of the judicial office, men should be selected of the most inflexible justice, who could not be swerved from a faithful discharge of their duties, by considerations of fear or favor. But as the qualities requisite for this office are not the most popular, men possessing those qualities would probably too often fail to secure an election resting on universal suffrage. Their appointment was therefore vested in the executive and the senate. The independence of the jurors is secured, (2.) by the duration of their offices; which is, in effect, for life, unless sooner removed on impeachment for official delinquency. This is esteemed one of the most valuable

What is meant by the judicial power of the government? Why is this power necessary? What is particularly important in constituting the judiciary? What provisions are made by the constitution, to secure the independence of the judges? Why is not the

of modern improvements in the practice of government. And (3.) the permanent provision for their support is calculated to secure an independent judiciary. Without such a provision, the fittest and most learned men, would not relinquish lucrative professional pursuits, for a station in the government, for the labors of which a liberal and permanent compensation was not provided.

But to ensure a just performance of duty, they are amenable for any corrupt violation of their trust; and on impeachment, they may be removed from office, and disqualified from holding any office whatever, under the government of the United States.

The constitution next defines the extent of the judiciary power:

"The judicial power shall extend to all cases in law and equity, arising under the constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states; and between a state, or the citizens thereof, and foreign states, citizens, or subjects."

The propriety and fitness of these judicial powers, seem to result, as a necessity, from the union of the states in one national government; for without them, a government could not long exist. They are made to extend "to all

appointment of the judges made to rest on popular suffrage? How long do judges hold their offices? What provision is made for their support? What is the amount of their salaries? What provision is made to ensure a just performance of their trust? To what ca-

cases arising under the constitution," because the meaning and operation of a compact ought always to be ascertained by an authority derived from all the parties, and not by an authority derived from any one of them. The other cases here enumerated, are evidently of national concern; the exercise of the judicial power by them, would produce confusion and dissatisfaction between parties, and disturb the peace of the union.

The organization of the judiciary was provided for by the judiciary act of 24th September, 1789. By this act were constituted, the supreme court, and courts of inferior grade, called circuit courts, and district courts.

Supreme Court. The supreme court consists of a chief justice, and six associate justices, any four of whom are a quorum. This court holds annually at the city of Washington, one session, commencing on the second Monday of January.

The constitution provides that, "in all cases affecting ambassadors, other public ministers, and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the congress shall make."

By *original jurisdiction* in any case, it is meant, that such case may *originate*, or commence, and be tried in this court. If a case has been first tried in an inferior court, and a party be not satisfied with the decision of the court, such party may *appeal* to the supreme court for

ses does the judicial power extend? Why might not the state courts exercise these powers? When was the judiciary organized?

Of what officers is the supreme court composed? Where is its annual session held? And when? In what cases has this court jurisdiction? What is meant by *original jurisdiction*? What does appellate jurisdiction signify? What is *exclusive jurisdiction*?—

trial. In such trial, the supreme court is said to have *appellate jurisdiction*. The grant of original jurisdiction to this court does not imply, however, that it has exclusive jurisdiction. It has original jurisdiction in no other cases than those mentioned in the constitution. Its principal business is to rejudge cases that are brought from the circuit courts.

When the constitution or laws of the United States come in question, in the highest court in a state, and are there judged of, a writ of error may be brought, whereby the case is transferred to the supreme court; and the decision of the state court may be approved or reversed. This provision is an essential one, that the constitution and laws of the union may be finally judged of in one tribunal, and that there may not be discordant judgments in like matters.

By writ of error, nothing is removed for re-examination but the law in the case; by appeal, the whole cause is entirely removed, and all the facts are submitted for a re-hearing.

Circuit Courts. The United States are divided into seven circuits, in each of which, two courts are annually held. This court is composed of the judge of the supreme court residing within such circuit, and the judge of the district wherein the court is held. The seven judges of the supreme court are so located as to bring one of them in each of the several circuits.

This court tries causes between citizens of different states, between aliens and citizens, and those wherein the

What is the principal business of the supreme court? How are cases removed to this court? What is the difference between cases removed by writ of error, and those removed by appeal? Into how many circuit districts are the United States divided? How are the circuit courts constituted? How are the several judges located? What cases are tried before this court? In what differ-

United States is a party. It also tries some cases in appeal from the district court. It sits in four different capacities: (1.) as a court of common law; (2.) as a court of equity, otherwise termed a court of chancery, in which there is no trial by jury; but the one party states his complaint in a bill of equity, and the other defends in a written answer. This is one of the few cases in the administration of justice, wherin what a party says for himself is evidence: (3.) as a maritime court, trying matters relating to affairs on the high seas. In time of war it tries all cases of prizes on appeal from district courts, and condemns the property captured: and (4.) as a court for the punishment of crimes against the laws of the United States. It has a grand jury, and a petit jury. It tries all felonies punishable with death, as murders in forts and arsenals, and other territory ceded by the states to the United States for national uses, and on board ships of war in time of peace, and when not within the body of a county, or within a harbor.

District Courts. These are the lowest national courts in the United States. Every state in the Union, constitutes at least one district: in a few of the larger states, there are two. In each of these there is a *district judge*. His powers relate to cases arising under the laws made for the collection of duties, to seizures of goods, to penalties and forfeitures under the laws of the United States, to matters in which aliens and foreign const's are parties; and to crimes of inferior grade against the laws of the United States, whether on land or sea. In every district there is a *district attorney*, who institutes and conducts suits for the United States; and a *marshal*, whose duty

ent capacities does this court sit? What is an *equity* court? What is a *maritime* court? How are district courts constituted? What cases are tried by the district judges? What other officers are ap-

is similar to that of a sheriff. These courts hold annually four stated terms.

The last material provision in the constitution is that which declares, that "this constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding."

This declaration seemed necessary to remove all doubt or ground of dispute, as to the superiority of the constitution and laws, and treaties of the United States, when they should be found to interfere with those of any state; and it necessarily belongs to the judicial power, whenever a case arises judicially, to determine what is the supreme law of the land. The determination of the supreme court must be final and conclusive, as the power is given to that tribunal to decide in all cases, and as there is no appeal from its decision.

pointed in the several districts? What does the constitution declare respecting its supremacy? Why was this declaration necessary? To what power are questions submitted for final decision?

PART FOURTH.

THE GOVERNMENT OF THE SEVERAL STATES;
INCLUDING THE CONSTITUTION AND CIVIL JU-
DICIAL CODE OF THE STATE OF NEW YORK

CHAPTER I.

Of the State Governments.

ALL the state governments are representative republics. All of them are conducted in conformity to written constitutions, adopted by the people, in each state, excepting in Rhode Island, where the ancient colonial charter is yet in force. Each one has a legislative, executive and judicial branch, and its own modes of exercising power in these several departments. The distinctions existing among the state governments are found in the qualifications of the electors, and of the elected; in the origin and duration of office; in the limitations of the powers which may be exercised; and in peculiar constitutional provisions; and, especially, in the character of legislation in each state. The principal constitutional provisions in the government of each state, are here given as concisely as possible.

MAINE.

The constitution dated in 1819.

Legislature. House of representatives chosen in towns, in proportion to number of inhabitants. Citizens, who have been such five years, and resident in the state one year, are eligible. Senate of twelve, of like qualifications, and twenty five years of age: chosen in districts, in proportion to the number of inhabitants therein. Annual election. Meeting, first Wednesday of January.

Executive. A governor, chosen annually by the people. Same qualifications as senators, except thirty years of age. A council of seven, chosen in convention of house and senate. The executive has the power of appointment and pardon, and a qualified negative on legislative acts, as in Massachusetts. Removal by impeachment. President of the senate acts as governor in case of vacancy.

Judiciary. Supreme judicial court, and county courts. Judges appointed and removable as in Massachusetts; disqualified at the age of seventy.

Voters. The qualifications are so inconsiderable, that suffrage may be said to be universal.

Religious freedom is provided for; there is no religious test in oaths of office.

NEW HAMPSHIRE.

Constitution adopted in 1792.

Legislature. Vested in a general court of two branches, house of representatives and senate. Representatives

When was the constitution of Maine adopted? How are representatives chosen? What are their qualifications? What number of senators? Qualifications? When does the legislature meet? In what does the executive branch consist? How elected? Qualifications? What powers? How removed? What courts? How are the judges appointed? How removed? What are the qualifications of voters?

are chosen in towns, in proportion to ratable polls; must have estate of £100, half of which is freehold. *Senate of twelve.* Senators must have been residents in the state seven years; must have freehold of £200; must be thirty years of age. They are chosen in districts, in proportion to amount of taxes paid therein. All elections for one year. Meeting, first Wednesday in June.

Executive. A governor. He must have an estate of £500, half of it freehold; like residence as senators. A council of five, chosen by the people. Executive powers and duties the same as in Maine. Removable by impeachment. President of the senate acts as governor in case of vacancy.

Judiciary. The same as in Maine.

Electors. Residence and payment of taxes; but, practically, universal suffrage.

Legislature empowered to provide by law for maintenance of religious worship. No religious test.

MASSACHUSETTS.

Constitution adopted in 1780. Some slight amendments were made to it in 1820.

Legislature. Senate and house of representatives, called general court. Representatives are required to have been resident one year in the town in which they are chosen; and to have a freehold of £100, or a taxable estate of £200. Senators are required to have been resident five years in the district in which they are chosen; and to have a freehold of £300, or taxable estate of £600.

Executive. The governor and lieutenant governor are required to have a freehold estate of £1000, and to be of

Note. The preceding questions, with a little variation, and a few occasional additions, which the instructor can easily supply, will be found applicable to the several states.

the Christian religion: no religious test in oaths of office.

Judiciary. Supreme judicial court, and court of common pleas; appointed by governor and council, and removable by the same, or by impeachment.

Electors. Residence and payment of taxes; but this is, practically, universal suffrage.

VERMONT.

Constitution adopted in 1777.

Legislature. Vested in a house of representatives, styled the general assembly. Members are qualified by two years' residence in the state, and one in the town represented. Annual elections. Meeting, second Tuesday of October. No senate. Legislative acts are subject to the revision of the executive branch, which can propose amendments, and suspend a proposed law till the next legislature.

Executive. Vested in a governor, lieutenant governor and council of twelve, all chosen by the people for one year. In council, the governor is only presiding officer, with a casting vote.

Judiciary. Judges of supreme and county courts may be elected annually by the house of representatives, in conjunction with the executive branch.

Elections. Qualifications amount to universal suffrage.

Neither of the branches shall exercise the powers of the other; yet the executive is a concurrent part of the legislature, and the court for the trial of impeachments. Once in seven years, thirteen *censors* are chosen, who examine, during one year, all departments of the government: they have power to order impeachments, and to call a convention of the people. Religious freedom is provided for.

CONNECTICUT

Constitution adopted in 1818; till which time it was governed under the colonial charter.

*L*egislature. General assembly, composed of house of representatives, and senate of twelve. Representatives chosen in districts, according to numbers; senators by general districts. The voters are styled in the constitution, *electors*; and all white male citizens are such, who are residents of the state for six months, and have a freehold of \$1000 dollars yearly value; or who have done militia duty for three, or paid a tax. Electors are entitled to vote for all officers, and to be eligible themselves to any office. All elections annual. Meeting, first Wednesday of May.

*E*xecutive. A governor, chosen by the people for one year. No council. State appointments are made by nomination of governor to the senate. Governor has no influence in the legislature. Can reprimand, but cannot pardon, the powers residing in the legislature. Removable on impeachment. Lieutenant governor is president of the senate.

*J*udiciary. Judges chosen by the legislature. Removable in Mass. by courts. Disqualified at seventy.

In this state, entire freedom of religion is secured. There is no religious test in office. The constitution recognises the existence of a large sch. I think and provides for its protection.

RHODE ISLAND.

The government of this state has been continual, hitherto, under a charter granted by Charles II. in 1663. The government is to a company, comprising a governor, deputy governor, and council. To this branch has been added a lower representative, chosen by the people, in towns; and a judiciary department, the judges of which are chosen annually by the people. The administration of the government is carried on by the legislative and executive departments, according to the construction given to the charter by usage. The powers of the governor are

very limited. There is perfect freedom as to religious opinions. No religious test. Suffrage is universal.

NEW JERSEY.

The constitution of this state was established the second of July, 1776 (two days before the declaration of independence.) It was formed on the supposition that the colony might again be taken under the protection of the British crown. It has continued to the present time, without any amendment, except that of changing the word *colony* for *state*.

Legislature. Vested in a council and general assembly. The council consists of one member from each county, worth at least £1000; and in the assembly, of three members from each county, worth, at least, £600. Power is given to the legislature to apportion the representatives in counties. Time of meeting, second Tuesday next after the second Tuesday of October annually.

Executive. The governor is chosen by the legislature annually. He presides in the council, is chancellor, military chief, and surrogate general. Vice president of council is successor in case of vacancy. The governor and council are a court of appeals. The pardoning power is vested in this body.

- *Judiciary.* Judges of supreme court are chosen by the legislature for seven years; other judges by the same, for shorter term. Removable by impeachment.

Voters must be citizens resident one year, and worth £50. Religious freedom, and exemption from taxation for support of worship, established.

This constitution is remarkable for the mingling of different powers in one branch.

PENNSYLVANIA.

The present constitution was established in 1790, and has not since been amended.

Legislature. General assembly, composed of senate and house of representatives. Senate is not to be more than one third, nor less than one fourth of the house, chosen in districts apportioned on the number of taxable inhabitants therein. The house to be not less than sixty, nor more than one hundred, chosen in districts in the same ratio as senators. Qualifications are, age of twenty five years, citizenship and residence. Representatives chosen annually; senators for four years, one fourth renewed annually. Meeting, first Tuesday in December.

Executive. The governor is chosen by the people triennially, and can be chosen only thrice in twelve years. No lieutenant governor. No council. He has the uncontrolled power of appointment of all officers, with remarkably few exceptions. The only qualifications required are citizenship, and residence in the state seven years next before the election. Pardoning power, except in cases of impeachment.

Judiciary. Vested in supreme court, and inferior courts. Judges are appointed by the governor during good behavior. Removable on impeachment, or by address to the governor by two thirds of the legislature. No court of chancery. No court of errors.

Voters. Citizenship, two years' residence, payment of taxes; supposed to be, practically, universal suffrage.

The most unqualified religious freedom has prevailed in this state from its earliest settlement.

DELAWARE.

This state acted under the colonial charter till 1792. It then adopted a constitution, which goes much into detail: and which has not been amended, except in one judicial article, adopted in the year 1802.

Legislature. General assembly, consisting of senate and house. The former never less than one third, nor

more than one half of the latter. Members of each apportioned on counties, with power in both houses of each branch, to increase the number in counties. Citizenship, residence and freehold estate required. Senators are chosen for three years; representatives annually. Meeting first Tuesday of January.

Executive. Governor, chosen by the people for three years; citizenship, and age of thirty-six years; ineligible for more than three years in six. Has the appointment of all officers; and the pardoning power, except in impeachment. He is succeeded by the speaker of the senate, on vacancy.

Judiciary. The constitution provides nothing for the exercise of judicial power. The courts are now royal. Judges are appointed during good behavior. removable on impeachment, or address of two thirds of both branches. No qualification by age.

Voters. White citizens; residence and payment of taxes; amounting, probably, to universal suffrage.

Religious freedom. The governor may be removed for inability, by two thirds of both branches.

NEW HAMPSHIRE.

The constitution of the state was adopted in 1776. It vests in the legislature the power of making or enacting by proposed *acts*, which must be published three months before the meeting of the legislature, and if confirmed, amendments are thereby effected. This power has been frequently exercised, and the constitution has been amended, and may be still extended in like manner.

Legislature. Senate and House of delegates. Senators are chosen for five years by electors, who are chosen in counties. Citizenship, age of twenty-five years, and three years' residence. Representatives, citizenship, and one years' residence. Chosen by the people annually. Meeting first Monday in December.

Elections.—Governor, chosen by joint ballot of legislative branches, for one year; may be chosen three years successively, and is then ineligible for four years, but to be tried for disqualification, and a trial may be had every four years. Lieutenant-governor, chosen by an elder of each House, on vacancy. There is an executive council of five, chosen by the people. Power of pardon in all cases, except those of high treason and piracy.

Judiciary.—Judges are appointed by seven, and confirmed by the legislature, and are eligible again for two-thirds of their term of service, and by the same body are tried in a court of justice, and only impeachable.

Voting.—Universal suffrage.

No subscription of religious belief is required, and religious freedom is established.

VIRGINIA.

This constitution was adopted in 1776.

Legislature is called the general assembly, composed of a house of delegates, of one hundred and eighty-four members, apportioned in four great districts; and of a senate of thirty, apportioned in two great districts. Members of the house are chosen annually by the people; of the senate, one third are annually chosen by popular election. Numbers of both houses are to be freeholders. Meeting, annual; constitution does not appoint the day.

Elections.—The governor is chosen for three years, by the two branches of the legislature, and is ineligible but once in six years. Citizenship, and residence, and age of thirty. A council of three, chosen with the governor is, the senior of whom is lieutenant-governor. The council are chosen for three years, but one of their number is annually renewed. The power of pardoning,

Judiciary. Judges and attorney general are chosen by the joint vote of the two branches, during good behavior, and are removable on address, or impeachment.

Voters. White male citizens. The qualifications are specially set forth, and all persons not so qualified are excluded. These qualifications are such that the right of voting comes very near to universal suffrage. All elections are *viva voce*, and not by ballot.

The clergy are ineligible as legislators. No legislative provision can be made for religious worship: every one is free to believe, and worship, as he pleases.

SOUTH CAROLINA.

Constitution adopted in 1790. It contains a provision, similar to that of Maryland, for amendments. It has been twice amended, once in 1808, and again in 1816.

Legislature is composed of general assembly, consisting of senate and house. One hundred and twenty four representatives are apportioned in districts, in such manner, that each representative shall represent one sixty second part of the whole number of white inhabitants, and one sixty second part of the whole amount of taxes raised by the state. The senate, of forty five, are chosen in election districts, which are established for the choice of representatives. Members of house of representatives chosen for two years; senators for four years, half of them renewed biennially. The former must be resident citizen three years; the latter for five years, and must be thirty years of age, and a freeholder. First Monday in November.

Executive. The governor, chosen by the legislature for two years; re-eligible after four years; must be thirty years of age, a citizen resident ten years and a freeholder. He has no council. Has the power of pardoning. A lieutenant governor, of like qualifications, is chosen,

who has no power or duty unless the office of governor becomes vacant. Removable by impeachment.

Judiciary. Judges appointed by joint ballot of the legislature, during good behavior. Removable by impeachment.

Voters. Resident citizens two years, and freehold, or payment of taxes to the amount of *three shillings* sterling, which comes near to universal suffrage.

Religious freedom established. Clergy ineligible to any civil office.

GEORGIA.

Constitution adopted in 1798. It has been amended in one judicial provision.

Legislature. The same organization as in South Carolina. The senate and house chosen in counties, according to white population, adding thereto two fifths of people of color. Citizenship, residence, age, and freehold or other taxable property. Meeting, second Tuesday of January.

Executive. Governor. Citizenship, age, freehold or taxable property. Qualified negative, as in Massachusetts. Has pardoning power, except in impeachment; power of reprieve in treason and murder, till session of legislature. Removable on impeachment. Governor is chosen by the legislature biennially. Has a qualified negative, as in Massachusetts.

Judiciary. Superior judges chosen by the legislature for three years. Removable by address and impeachment.

Voters. Qualifications, practically, amount to universal suffrage.

KENTUCKY.

Constitution adopted in 1799; has not been amended. Convention necessary to amend.

Legislature. Senate and house of representatives. Senators chosen for four years; one fourth revocable annually. Whole number twenty four; may be increased in proportion of one for every three added to the house. Resident citizens six years; age thirty five. Chosen in districts, in proportion to qualified electors. Representatives must be resident citizens two years; age twenty four; proportioned on qualified electors. Whole number never less than fifty eight, nor more than one hundred. Meet annually, first Monday of November.

Executive. Elected by electors as above, for four years; then ineligible for seven. Resident citizens six years; age thirty five. Power of pardon, except in cases of impeachment, of reprieving in treason, till the legislature are convened. Power of nomination to the senate to all judicial, and other important offices. Qualified a negative Lieutenant governor, who is president of the senate.

Judiciary. Tenure of office the same as in Massachusetts, and removable as in that state.

Voters. Universal suffrage.

Members of legislature disqualifed for one year to accept any office created or enlarged by the constitution, of which have been increased during their membership. Clergy disqualifed for civil office. In all elections, voting is in *viva voce*, and not by ballot. Slaves not to be emancipated by law, without consent of their masters; nor without making to their owners compensation therefor; nor to be prohibited from being brought to the state by emigrants. Laws shall be passed to prohibit owners to emancipate on certain conditions, and to prevent slaves from being brought into the state as merchandise. Provisions are made for the enacting of laws requiring humane treatment, and trial by jury for offences. Religious freedom established.

OHIO.

Constitution adopted 1802. Amendable by convention, has not been amended.

*L*egislature. House and senate. Members of the former, resident citizens one year; age twenty five; and must have paid taxes; chosen in counties, according to number of white male inhabitants above 21 years of age. Whole number never less than thirty six, nor more than seventy two. Senators, same qualifications; chosen for two years; one half renewed annually; chosen on the same basis as members of the house; and not to be less than a third, nor more than half, of the number of representatives. Meeting, on first Monday in December.

*E*xecutive. Governor, chosen by the same electorate for two years; eligible six years in eight; must be thirty years of age, and a resident citizen four years. Power of pardoning except in impeachments. Speaker of the house is lieutenant. No council; no legislative; no power of appointment.

*J*udiciary. Chosen by joint ballot of two branches of the legislature for seven years. Removable by impeaching it.

*V*ote. Universal suffrage.

Religious freedom. Slavery prohibited, and provision for ending existing servitude by lapse of time.

INDIANA.

Constitution adopted in 1816. Amendable by convention; has not been amended.

*L*egislature. Senate and house. Qualifications of members, resident citizens, and payment of tax; basis, members of white male inhabitants above twenty one; chosen in counties and districts. Members of house chosen annually; senators for three years, one third renewable annually. Meeting, on the first Monday of December.

Executive. Governor, chosen by same electors for three years; eligible six years in nine; must be resident citizen five years, and thirty years of age. Power of pardon, as in Ohio; has qualified negative, as in Massachusetts. Nominates all officers (with few exceptions) to the senate. Lieutenant governor, who is president of the senate.

Judiciary. The judges of the supreme court are appointed by the governor, with the consent of the senate; the president of the circuit (or county) courts, by the joint ballot of the two branches of the legislature; and the associate judges of this court are elected by the people. Removable on impeachment.

Education liberally provided for. Slavery prohibited. Acts of legislature not in force till published in print. The like provision as to *libels* as in the state of New York. Religious freedom established.

LOUISIANA.

Constitution adopted in 1812; has not been amended: amendable by convention.

Legislature. House and senate. Representatives chosen for two years; must be citizen residents two years, and freeholders; chosen on the basis of the number of qualified electors; not less in number than twenty five, nor more than fifty. Senators, fourteen in number, chosen in districts, for four years; half renewed biennially. Senators must have been resident citizens four years, twenty seven years of age, and freeholders of the value of \$1000. Members of either branch can take no office created, or office of which the emoluments were increased, during their membership, unless by popular election. Meeting, first Monday in January.

Executive. The members of the two houses ballot for one of the two candidates, who have obtained the highest

number of votes from the electors qualified to choose these members. The governor is elected for four years; is ineligible next four years; must be citizen resident six years, thirty years of age, and freeholder of \$5000 value. Clergymen ineligible; also members of congress. Power of pardoning, with the assent of the senate; but no impeachments. President of the senate successor. Has a qualified negative, as in Massachusetts. No council. Has the general power of appointment with the consent of the senate.

Judiciary. Appointed during good behavior; removable on impeachment or address.

Voters. The provisions exclude none but those who have not paid a tax; suffrage is, probably, universal.

The clergy are excluded from civil office. This constitution is silent as to religion, education and slavery.

MISSISSIPPI.

Constitution adopted in 1817.

Legislature. Senate and house; members of both chosen by the qualified electors of the state. Members of house of representatives must be resident citizens two years; twenty two years of age, and freeholders of the value of \$500. Whole number never less than thirty six nor more than one hundred, chosen for one year. Senators shall never be less than one fourth, nor more than one third, of the number of the house; apportioned on taxable inhabitants, in districts; must be resident citizens four years; twenty six years of age; freehold, or other estate of \$1000. Similar provisions as in Delaware, as to offices created, &c. during membership. Time of meeting, first Monday of November.

Executive. Chosen by same electors; must have been a citizen twenty years, a citizen resident five years, thirty years of age, and a freeholder of the value of \$2000.

Has qualified negative, as in Massachusetts. Chosen for two years. Has no power of appointment; no council. Has the power of pardoning, except in cases of treason and impeachment. Lieutenant governor, who is president of the senate.

Judges. Judges are chosen by the legislature, during good behavior. Removable by impeachment or address; discharged at sixty five years of age.

Voters. The provisions amount to universal suffrage. *Other Provisions.* Clergy excluded from civil office. Legislature shall provide, by law, in what manner and in what committee, suits may be brought against the state.—Religion and education “shall be forever encouraged in this state.” There, there is a provision similar to that in the constitution of Kentucky.

ILLINOIS.

This constitution was established in 1819 and is, in general, so much like that of Mississippi, that it is unnecessary to notice anything but the points of difference. Slavery is prohibited in Illinois. The governor and the Judges of the supreme court, jointly exercise the qualified negative on legislative acts, which, in some other states, is vested in the governor. First Monday of December, every second year. Voting, *re^{re} vot.*

ALABAMA.

Constitution adopted in 1819. The provisions are so similar to those in the state of Mississippi, that it is unnecessary to describe them. The greatest number of representatives is one hundred. The senate no less than a fourth, nor more than a third, of that number. Meeting, fourth Monday of October.

MISSOURI.

Constitution adopted in 1820. This constitution is so much like that of Mississippi, that it is needless to de-

scribe it. Meeting of legislature, first Monday every second year. Whole number of representatives never to exceed one hundred.

[As measures are in progress in the states of North Carolina and Tennessee for amending their constitutions, it is deemed unnecessary to notice any of the provisions in the present constitutions of those states.]

It appears, from the preceding view of the state governments, that in most of the states, political power is exercised in much the same manner as under the government of the United States. This may be accounted for by the fact, that the state governments, (the original thirteen,) existed prior to the formation of the United States' constitution; to which the most prominent features of the state constitutions were given. The present constitution of Massachusetts, though adopted in 1780, several years before that of the United States, resembles the latter in most of its essential provisions. Among these are the qualified negative of the executive on acts of the legislature; and the appointment of the supreme judicial officers, their term of office, which is during good behavior, and their removal by impeachment. Similar provisions have since been incorporated in the state constitutions, with few exceptions. The former constitution of New York, adopted as early as 1777, contained the same provisions, except that the negative power on acts of the legislature, instead of being vested in the governor alone, resided in a council of revision, consisting of the governor, chancellor, and judges of the supreme court. The constitution of this state, however, as amended in 1821, vests the negative in the governor alone.

In twelve of the states, *slavery* is permitted: viz. Delaware, Virginia, North Carolina, South Carolina, Georgia, Kentucky, Tennessee, Missouri, Louisiana, Missis-

sippi, and Alabama. Also in the District of Columbia, and the Arkansas Territory.

CHAPTER II.

Constitution of the State of New York.

WE, the people of the state of New York, acknowledging with gratitude, the grace and beneficence of God, in permitting us to make choice of our form of government, do establish this constitution.

ARTICLE I.

SECTION 1. The legislative power of this state shall be vested in a senate and assembly.

SECTION 2. The senate shall consist of thirty two members. The senators shall be chosen for four years, and shall be freeholders. The assembly shall consist of one hundred and twenty eight members, who shall be annually elected.

SECTION 3. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the qualifications of its own members. Each house shall choose its own officers; and the senate shall choose a temporary president, when the lieutenant governor shall not attend as president, or shall not act as governor.

In what is the legislative power of the state vested? How is the legislature constituted? What are the powers and regulations.

SECTION 4. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

SECTION 5. The state shall be divided into eight districts, each of which shall choose four senators.

The first district shall consist of the counties of Suffolk, Queens, Kings, Richmond and New York.

The second district shall consist of the counties of Westchester, Putnam, Dutchess, Rockland, Orange, Ulster and Sullivan.

The third district shall consist of the counties of Greene, Columbia, Albany, Rensselaer, Schoharie and Schenectady.

The fourth district shall consist of the counties of Saratoga, Montgomery, Hamilton, Washington, Warren, Clinton, Essex, Franklin and St. Lawrence.

The fifth district shall consist of the counties of Herkimer, Oneida, Madison, Oswego, Lewis and Jefferson.

The sixth district shall consist of the counties of Delaware, Otsego, Chenango, Broome, Cortland, Tompkins and Tioga.

The seventh district shall consist of the counties of Onondaga, Cayuga, Seneca and Ontario.

The eighth district shall consist of the counties of Steuben, Livingston, Monroe, Genesee, Niagara, Erie, Allegany, Cattaraugus and Chautauque.

And as soon as the senate shall meet, after the first election to be held in pursuance of this constitution, they shall cause the senators to be divided by lot, into four

classes, of eight in each, so that every district shall have one senator of each class: the classes to be numbered, one, two, three and four. And the seats of the first class shall be vacated at the end of the first year; and of the second class, at the end of the second year; of the third class, at the end of the third year; of the fourth class, at the end of the fourth year; in order that one senator be annually elected in each senate district.

SECTION 6. An enumeration of the inhabitants of the state shall be taken, under the direction of the legislature, in the year one thousand eight hundred and twenty five, and at the end of every ten years thereafter; and the said districts shall be so altered by the legislature, at the first session after the return of every enumeration, that each senate district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, paupers, and persons of color not taxed; and shall remain unaltered, until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senate district.

SECTION 7. The members of the assembly shall be chosen by counties, and shall be apportioned among the several counties of the state, as nearly as may be, according to the numbers of their respective inhabitants, excluding aliens, paupers, and persons of color, not taxed. An apportionment of members of assembly shall be made by the legislature, at its first session after the return of every enumeration; and, when made, shall remain unaltered until another enumeration shall have been taken. But an apportionment of members of the assembly shall be made by the present legislature according to the last

enumeration, taken under the authority of the United States, as nearly as may be. Every county heretofore established, and separately organized, shall always be entitled to one member of assembly, and no new county shall hereafter be erected, unless its population shall entitle it to a member.

SECTION 8. Any bill may originate in either house of the legislature; and all bills passed by one house may be amended by the other.

SECTION 9. The members of the legislature shall receive for their services, a compensation to be ascertained by law, and paid out of the public treasury; but no increase of the compensation shall take effect during the year in which it shall have been made. And no law shall be passed, increasing the compensation of the members of the legislature beyond the sum of three dollars a day.

SECTION 10. No member of the legislature shall receive any civil appointment from the governor and senate or from the legislature, during the term for which he shall have been elected.

SECTION 11. No person being a member of congress, or holding any judicial or military office under the United States, shall hold a seat in the legislature. And if any person shall, while a member of the legislature, be elected to congress, or appointed to any office, civil or military, under the government of the United States, his acceptance thereof shall vacate his seat.

sembly appointed? How is compensation to members secured? What persons are disqualified from being members? What pow-

SECTION 12. Every bill which shall have passed the senate and assembly, shall, before it become a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated: who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of the members present, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays: and the names of the persons voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent its return: in which case it shall not be a law.

SECTION 13. All officers holding their offices during good behavior, may be removed by joint resolution of the two houses of the legislature, if two thirds of all the members elected to the assembly, and a majority of all the members elected to the senate, concur therein.

SECTION 14. The political year shall begin on the first day of January, and the legislature shall every year assemble on the first Tuesday of January, unless a different day shall be appointed by law.

er has the governor in passing law? How may officers holding offices during good behavior be removed? When does the politi-

SECTION 15. The next election for governor, lieutenant governor, senators and members of assembly, shall commence on the first Monday of November, one thousand eight hundred and twenty two; and all subsequent elections shall be held at such time, in the month of October or November, as the legislature shall by law provide.

SECTION 16. The governor, lieutenant governor, senators, and members of assembly, first elected under this constitution, shall enter on the duties of their respective offices, on the first day of January, one thousand eight hundred and twenty three; and the governor, lieutenant governor, senators and members of assembly, now in office, shall continue to hold the same until the first day of January, one thousand eight hundred and twenty three, and no longer.

ARTICLE II.

SECTION 1. Every male citizen of the age of twenty one years, who shall have been an inhabitant of this state one year preceding any election, and for the last six months a resident of the town or county where he may offer his vote; and shall have, within the year next preceding the election, paid a tax to the state or county, assessed upon his real or personal property; or shall by law be exempted from taxation; or being armed and equipped according to law, shall have performed, within that year, military duty in the militia of this state; or who shall be exempted from performing military duty in consequence of being a fireman in any city, town or village, in this state: and also every male citizen of the age of twenty one years, who shall have been, for three years

cal year commence? When is the annual election? What are the qualifications of electors?—(See second amendment.) Who

next preceding such election an inhabitant of this state; and for the last year, a resident in the town or county where he may offer his vote; and shall have been, within the last year, assessed to labor on the public highways, and shall have performed the labor, or paid an equivalent therefor, according to law; shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are, or hereafter may be, elective by the people. But no man of color, unless he shall have been for three years a citizen of this state, and for one year next preceding any election, shall be seized and possessed of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and incumbrances thereon; and shall have been actually rated, and paid a tax thereon, shall be entitled to vote at any such election. And no person of color shall be subject to direct taxation, unless he shall be seized and possessed of such real estate as aforesaid.

SECTION 2. Laws may be passed, excluding from the right of suffrage, persons who have been or may be convicted of infamous crimes.

SECTION 3. Laws shall be made for ascertaining by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established.

SECTION 4. All elections by the citizens shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen.

ARTICLE III.

SECTION 1. The executive power shall be vested in a governor. He shall hold his office for two years; and a

may be excluded? In whom is the executive power vested? What

lieutenant governor shall be chosen at the same time, and for the same term.

SECTION 2. No person except a native citizen of the United States, shall be eligible to the office of governor; nor shall any person be eligible to that office, who shall not be a freeholder, and shall not have attained the age of thirty years, and have been five years a resident within this state; unless he shall have been absent during that time on public business of the United States, or of this state.

SECTION 3. The governor and lieutenant governor shall be elected at the times and places of choosing members of the legislature. The persons respectively having the highest number of votes for governor and lieutenant governor, shall be elected; but in case two or more shall have an equal and the highest number of votes for governor or for lieutenant governor, the two houses of the legislature shall, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for governor or lieutenant governor.

SEC. 4. The governor shall be general and commander-in-chief of the militia, and admiral of the navy of the state. He shall have power to convene the legislature. (or senate only,) on extraordinary occasions. He shall communicate by message to the legislature at every session, the condition of the state; and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws are faithfully executed. He

are qualifications of governor? His duties and powers? In what

shall at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 5. The governor shall have power to grant reprieves and pardons after conviction, for all offences, except treason and impeachment. Upon convictions for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the legislature at its next meeting; when the legislature shall either pardon or direct the execution of the criminal, or grant a further reprieve.

SEC. 6. In case of the impeachment of the governor, or his removal from office, death, resignation, or absence from the state, the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term, or until the governor, absent or impeached, shall return or be acquitted. But when the governor shall, with the consent of the legislature, be out of the state in time of war, at the head of a military force thereof, he shall continue commander-in-chief of the military force of the state.

SEC. 7. The lieutenant governor shall be president of the senate, but shall have only a casting vote therein. If, during a vacancy of the office of governor, the lieutenant governor shall be impeached, displaced, resign, die, or be absent from the state, the president of the senate shall act as governor, until the vacancy shall be filled, or the disability shall cease.

cases are they exercised by lieutenant governor? When by presi-

ARTICLE IV.

SEC. 1. Militia officers shall be chosen or appointed as follows: captains, subalterns, and non-commissioned officers, shall be chosen by the written votes of the members of their respective companies. Field officers of regiments and separate battalions, by the written votes of the commissioned officers of the respective regiments and separate battalions. Brigadier generals, and commanding officers of regiments or separate battalions, shall appoint the staff officers of their respective divisions, brigades, regiments or separate battalions,

SEC. 2. The governor shall nominate, and with the consent of the senate appoint, all major-generals, brigade inspectors, and chief of the staff departments, except the adjutant-general and commissary-general; the adjutant-general shall be appointed by the governor.

SEC. 3. The legislature shall, by law, direct the time and manner of electing militia officers, and of certifying their election to the governor.

SEC. 4. The commissioned officers of the militia shall be commissioned by the governor; and no commissioned officer shall be removed from office, unless by the senate, on the recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of the court martial pursuant to law. The present officers of the militia shall hold their commissions, subject to removal as before provided.

SEC. 5. In case the mode of election and appointment of militia officers hereby directed, shall not be found con-

dent of senate? How are the militia officers appointed? By whom

ducive to the improvement of the militia, the legislature may abolish the same, and provide by law for their appointment and removal, if two thirds of the members present in each house shall concur therein.

SEC. 6. The secretary of state, comptroller, treasurer, attorney-general, surveyor-general, and commissary-general, shall be appointed as follows: The senate and assembly shall each openly nominate one person for the said offices respectively; after which, they shall meet together, and if they shall agree in their nominations, the person so nominated shall be appointed to the office for which he shall be nominated. If they shall disagree, the appointment shall be made by the joint ballot of the senators and members of assembly. The treasurer shall be chosen annually. The secretary of state, comptroller, attorney-general, surveyor-general, and commissary-general, shall hold their offices for three years, unless sooner removed by concurrent resolution of the senate and assembly.

SEC. 7. The governor shall nominate, by message in writing, and with the consent of the senate, shall appoint, all judicial officers, except justices of the peace, who shall be appointed in manner following, that is to say: The board of supervisors in every county in this state, shall, at such time as the legislature may direct, meet together; and they, or a majority of them so assembled, shall nominate so many persons as shall be equal to the number of justices of the peace to be appointed in the several towns in the respective counties. And the judges of the respective county courts, or a majority of them, shall also meet and nominate a like number of persons; and it shall be

commissioned? How are state officers appointed? What judicial

the duty of the said board of supervisors, and judges of county courts, to compare such nominations, at such time and place as the legislature may direct ; and if, on such comparison, the said boards of supervisors and judges of county courts shall agree in their nominations, in all, or in part, they shall file a certificate of the nominations in which they shall agree, in the office of the clerk of the county ; and the person or persons named in such certificates, shall be justices of the peace ; and in case of disagreement in the whole, or in part, it shall be the farther duty of the said boards of supervisors and judges respectively, to transmit their said nominations, so far as they disagree in the same, to the governor, who shall select from the said nominations, and appoint so many justices of the peace as shall be requisite to fill the vacancies. Every person appointed a justice of the peace, shall hold his office for four years, unless removed by the county court, for causes particularly assigned by the judges of the said court ; and no justice of the peace shall be removed, until he shall have notice of the charges made against him, and an opportunity of being heard in his defence.

Sec. 8. Sheriffs and clerks of counties, including the register, and clerk of the city and county of New York, shall be chosen by the electors of the respective counties, once in every three years, and as often as vacancies shall happen. Sheriffs shall hold no other office, and be ineligible for the next three years after the termination of their offices. They may be required by law to renew their security, from time to time ; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of

officers are thus appointed? How are justices of the peace elected? (See first amendment.) Sheriffs and clerks of counties? Clerks

the sheriff; and the governor may remove any such sheriff, clerk or register, at any time within the three years for which he shall be elected, giving to such sheriff, clerk or register, a copy of the charge against him, and an opportunity of being heard in his defence, before any removal shall be made.

SEC. 9. The clerks of courts, except those clerks whose appointment is provided for in the preceding section, shall be appointed by the courts of which they respectively are clerks; and district attorneys by the county courts. Clerks of courts, and district attorneys, shall hold their offices for three years, unless sooner removed by the courts appointing them.

SEC. 10. The mayors of all the cities in this state, shall be appointed annually by the common councils of their respective cities.

SEC. 11. So many coroners as the legislature may direct, not exceeding four in each county, shall be elected in the same manner as sheriffs, and shall hold their offices for the same term, and be removable in like manner.

SEC. 12. The governor shall nominate, and, with the consent of the senate, appoint, masters and examiners in chancery; who shall hold their offices for three years, unless sooner removed by the senate, on the recommendation of the governor. The registers, and assistant registers, shall be appointed by the chancellor, and hold their offices during his pleasure.

SEC. 13. The clerk of the court of oyer and terminer,

of courts and district attorneys? Mayors of cities? (See amendment.) Coroners? Masters and examiners in chancery? Re-

and general sessions of the peace, in and for the city and county of New York, shall be appointed by the court of general sessions of the peace in said city, and hold his office during the pleasure of said court; and such clerks and other officers of courts, whose appointment is not herein provided for, shall be appointed by the several courts; or by the governor, with the consent of the senate, as may be directed by law.

SEC. 14. The special justices, and the assistant justices, and their clerks, in the city of New York, shall be appointed by the common council of the said city; and shall hold their offices for the same term that the justices of the peace, in the other counties of this state, hold their offices, and shall be removable in like manner.

SEC. 15. All officers heretofore elective by the people shall continue to be elected; and all other officers, whose appointment is not provided for by this constitution, and all officers, whose offices may be hereafter created by law, shall be elected by the people, or appointed, as may by law be directed.

SEC. 17. Where the duration of any office is not prescribed by this constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

ARTICLE V.

SEC. 1. The court for the trial of impeachments, and the correction of errors, shall consist of the president of the senate, the senators, the chancellors, and the justices

gisters, &c.? Clerks and other officers in the city of New York? What officers constitute the court of errors, and court to try im-

of the supreme court, or the major part of them; but when an impeachment shall be prosecuted against the chancellor, or any justice of the supreme court, the person so impeached shall be suspended from exercising his office, until his acquittal: and when an appeal from a decree in chancery shall be heard, the chancellor shall inform the court of the reasons for his decree, but shall have no voice in the final sentence; and when a writ of error shall be brought, on a judgment of the supreme court, the justices of that court shall assign the reasons for their judgment, but shall not have a voice for its affirmation or reversal.

SEC. 2. The assembly shall have the power of impeaching all civil officers of this state for mal and corrupt conduct in office, and high crimes and misdemeanors: but a majority of all the members elected shall concur in an impeachment. Before the trial of an impeachment the members of the court shall take an oath or affirmation, truly and impartially to try and determine the charge in question according to evidence: and no person shall be convicted, without the concurrence of two thirds of the members present. Judgment in cases of impeachment, shall not extend farther than the removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under this state; but the party convicted shall be liable to indictment and punishment, according to law.

SEC. 3. The chancellor and justices of the supreme court, shall hold their offices during good behavior, or until they shall attain the age of sixty years.

peachments? What body has power to impeach? What offices are held during good behavior? How is the supreme court con-

SEC. 4. The supreme court shall consist of a chief justice and two justices, any of whom may hold the court.

SEC. 5. The state shall be divided, by law, into a convenient number of circuits, not less than four nor exceeding eight, subject to alteration by the legislature, from time to time, as the public good may require; for each of which a circuit judge shall be appointed, in the same manner, and hold his office by the same tenure, as the justices of the supreme court at chambers, and in the trial of issues joined in the supreme court, and in courts of oyer and terminer and jail delivery. And such equity powers may be vested in said circuit judges, or in the county courts, or in such other subordinate courts, as the legislature may by law direct, subject to the appellate jurisdiction of the chancellor.

SEC. 6. Judges of the county courts, and recorders of cities, shall hold their offices for five years, but may be removed by the senate, on the recommendation of the governor, for causes to be stated in such recommendation.

SEC. 7. Neither the chancellor, nor justices of the supreme court, nor any circuit judge, shall hold any other office or public trust. All votes for any elective office, given by the legislature or the people, for the chancellor, or a justice of the supreme court, or circuit judge, during his continuance in his judicial office, shall be void.

ARTICLE VI.

SEC. 1. Members of the legislature, and all officers, executive and judicial, except such inferior officers, as

stituted? Circuit courts? What is the tenure of office of county judges? How removed? What judicial officers may hold no

may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

I do solemnly swear, (or affirm, as the case may be,) that I will support the constitution of the United States, and the constitution of the state of New York, and that I will faithfully discharge the duties of the office of —— according to the best of my ability.

And no other oath, declaration, or test, shall be required as a qualification for any office or public trust.

ARTICLE VII.

SEC. 1. No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

SEC. 2. The trial by jury, in all cases in which it has been heretofore used, shall remain inviolate for ever; and no new court shall be instituted, but such as shall proceed according to the course of the common law; except such courts of equity as the legislature is herein authorized to establish.

SEC. 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall for ever be allowed in this state, to all mankind; but the liberty of conscience hereby secured, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

SEC. 4. And whereas the ministers of the gospel are,

other office? What oath is taken by legislative, executive and judicial officers? What rights and privileges are secured by the

by their profession, dedicated to the service of God, and the cure of souls, and ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatsoever, shall at any time hereafter, under any pretence or description whatever, be eligible to, or capable of holding any civil or military office or place within this state.

SEC. 5. The militia of this state shall, at all times hereafter, be armed and disciplined, and in readiness for service: but all such inhabitants of this state, of any religious denomination whatever, as from scruples of conscience may be averse to bearing arms, shall be excused therefrom, by paying to the state an equivalent in money; and the legislature shall provide by law for the collection of such equivalent, to be estimated according to the expense in time and money, of an ordinary able bodied militia man.

SEC. 6. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

SEC. 7. No person shall be held to answer for a capital, or other infamous crime, [except in cases of impeachment, and in cases of the militia when in actual service: and the land and naval forces in time of war, or which this state may keep, with the consent of the congress, in time of peace, and in cases of petit larceny, under the regulation of the legislature;] unless on presentment, or indictment of a grand jury; and in every trial on impeachment or indictment, the party accused shall be allowed counsel as in civil actions. No person shall be

subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall he be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law: nor shall private property be taken for public use, without just compensation.

SEC. 8. Every citizen may freely speak, write and publish his sentiments, on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all prosecutions, or indictment for libels, the truth may be given in evidence to the jury: and if it shall appear to the jury, that the matter charged as libellous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

SEC. 9. The assent of two thirds of the members elected to each branch of the legislature, shall be requisite to every bill appropriating the public moneys or property, for local or private purposes, or creating, continuing, altering, or renewing, any body politic or corporate.

SEC. 10. The proceeds of all lands belonging to this state, except such parts thereof as may be reserved or appropriated to public use, or ceded to the United States, which shall hereafter be sold or disposed of, together with the fund denominated the common school fund, shall be and remain a perpetual fund, the interest of which shall be inviolably appropriated to the support of common schools throughout this state. Rates of toll, not less than those agreed to by the canal commissioners, and set forth in their report to the legislature of the twelfth of March,

one thousand eight hundred and twenty one, shall be imposed on, and collected from, all parts of the navigable communication between the great western and northern lakes and the Atlantic ocean, which now are, or hereafter shall be, made and completed; and the said tolls, together with the duties on the manufacture of all salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen: and the duties on goods sold at auction, excepting therefrom the sum of thirty three thousand five hundred dollars, otherwise appropriated by the said act; and the amount of the revenue, established by the act of the legislature of the thirtieth of March, one thousand eight hundred and twenty, in lieu of the tax upon steam boat passengers; shall be and remain inviolably appropriated and applied to the completion of such navigable communications, and to the payment of the interest, and reimbursement of the capital, of the money borrowed, or which hereafttr shall be borrowed, to make and complete the same. And neither of the rates of toll on the said navigable communications, nor the duties on the manufacture of salt aforesaid, nor the duties on goods sold at auction, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen; nor the amount of the revenue, established by the act of March the thirtieth, one thousand eight hundred and twenty, in lieu of the tax upon steam boat passengers; shall be reduced or diverted, at any time, before the full and complete payment of the principal and interest of the money borrowed, or to be borrowed, as aforesaid. And the legislature shall never sell or dispose of the salt springs belonging to this state, nor the lands contiguous thereto, which may be necessary or convenient for their use, nor the said navigable communications or any part or section thereof, but the same shall be and remain the property of this state.

SEC. 11. No lottery shall hereafter be authorized in this state; and the legislature shall pass laws to prevent the sale of all lottery tickets within this state, except in lotteries already provided for by law.

SEC. 12. No purchase or contract for the sale of lands in this state, made since the fourteenth day of October, one thousand seven hundred and seventy five, or which may hereafter be made, of or with the Indians in this state, shall be valid, unless under the authority and consent of the legislature.

SEC. 13. Such parts of the common law, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony on the nineteenth day of April, one thousand seven hundred and seventy five, and the resolutions of the congress of the said colony, and of the convention of the state of New York, in force on the twentieth day of April, one thousand seven hundred and seventy seven, which have not since expired, or been repealed, or altered; and such acts of the legislature of this state as are now in force, shall be and continue the law of this state, subject to such alterations as the legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this constitution, are hereby abrogated.

SEC. 14. All grants of lands within this state, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy five, shall be null and void; but nothing contained in this constitution shall affect any grants of land within this state, made by the au-

thority of the said king or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made before that day; or shall affect any such grants or charters since made by this state, or by persons acting under its authority; or shall impair the obligation of any debts contracted by the state, or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings, in courts of justice.

ARTICLE VIII.

SEC. 1. Any amendment or amendments to this constitution, may be proposed in the senate or assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on the journals, with the yeas and nays taken thereon, and referred to the legislature next to be chosen, and shall be published for three months previous to the time of making such choice; and, if in the legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by two thirds of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the legislature voting thereon, such amendment or amendments shall become part of the constitution.

ed to be the law of the state? What provision is made for future

ARTICLE IX.

SEC. This constitution shall be in force from the last day of December, in the year one thousand eight hundred and twenty two. But all those parts of the same, which relate to the right of suffrage; the division of the state into senate districts; the number of members of the assembly to be elected, in pursuance of this constitution; the apportionment of mnmbers of assembly; the elections hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty two; the continuance of the members of the present legislature in office until the first day of January, in the year one thousand eight hundred and twenty three; and the prohibition against authorizing lotteries; the prohibition against appropriating the public moneys or property for local or private purposes, or creating, continuing, altering, or renewing any body politic or corporate, without the assent of two thirds of the members elected to each branch of the legislature, shall be in force and take effect from the last day of February next. The members of the present legislature shall, on the first Monday of March next, take and subscribe an oath or affirmation to support the constitution, so far as the same shall then be in force. Sheriffs, clerks of counties, and coroners, shall be elected at the election hereby directed to commence on the first Monday of Nov., in the year one thousand eight hundred and twenty two; but they shall not enter on the duties of their office before the first day of January then next following. The commissions of all persons holding civil offices on the last day of December, one thousand eight hundred and twenty two, shall expire on that day; but the officers then in commission, may respectively

amendments to the constitution? When was this constitution formed? When was it ratified by the people?

continue to hold their said offices, until new appointments or elections shall take place under this constitution.

SEC. 2. The existing laws relative to the manner of notifying, holding and conducting elections, making returns, and canvassing votes, shall be in force, and observed in respect to the elections hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty two, so far as the same are applicable. And the present legislature shall pass such other and further laws as may be requisite for the execution of the provisions of this constitution in respect to elections.

Done in convention, at the capitol, in the city of Albany, the tenth day of November, in the year one thousand eight hundred and twenty one, and of the independence of the United States of America, the forty sixth.

In witness whereof, we have hereunto subscribed our names.

DANIEL D. TOMPKINS, *President.*

John F. Bacon, }
Samuel S. Gardiner, } Secretaries.

[The foregoing constitution was ratified by the people, at an election held in the several towns and wards of this state, on the fifteenth, sixteenth, and seventeenth days of January, one thousand eight hundred and twenty two.]

AMENDMENTS.

[The following amendments to the constitution were proposed by the legislature in 1825, were referred to the legislature of 1826, agreed to by two thirds of the mem-

bers elected to each house of that legislature, submitted to the people, and approved and ratified at an election held on the sixth, seventh, and eighth days of November, 1826.]

First Amendment.

That the people of this state, in their several towns, shall, at their annual election, and in such manner as the legislature shall direct, elect by ballot their justices of the peace; and the justices so elected in any town, shall immediately thereafter meet together, and in presence of the supervisor and town clerk of the said town, be divided by lot into four classes, of one in each class, and be numbered, one, two, three and four; and the office of number one shall expire at the end of the first year, of number two at the end of the second year, of number three at the end of the third year, and of number four at the end of the fourth year, in order that one justice may thereafter be annually elected: and that so much of the seventh section of the fourth article of the constitution of this state as is inconsistent with this amendment, be abrogated.

Second Amendment.

That so much of the first section of the second article of the constitution as prescribes the qualifications of voters, other than persons of color, be, and the same is hereby abolished, and that the following be substituted in the place thereof:

Every male citizen of the age of twenty one years, who shall have been an inhabitant of this state one year next preceding any election, and for the last six months a resident of the county where he may offer his vote, shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are or hereafter may be elective by the people.

Third Amendment.

[The following amendments, having been previously proposed by the legislature, were ratified by the people at the annual election in November, 1833.]

That the duties on the manufacture of salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen, and by the tenth section of the seventh article of the constitution of this state, may at any time hereafter be reduced by an act of the legislature of this state, but shall not, while the same is appropriated and pledged by the said section, be reduced below the sum of six cents upon each and every bushel, and the said duties shall remain inviolably appropriated and applied as is provided by the said tenth section; and that so much of the said tenth section of the seventh article of the constitution of this state as is inconsistent with this amendment, be abrogated.

Fourth Amendment.

At the end of the tenth section of the fourth article of the said constitution, add the following words: "Except in the city of New York, in which the mayor shall be chosen annually by the electors thereof qualified to vote for the other charter officers of the said city, and at the time of the election of such officers."

CHAPTER III.

Executive State Officers—their Powers and Duties—and their Compensation.

THE governor and lieutenant governor are the two highest executive officers in the state. Their principal powers and duties are prescribed by the constitution; and correspond, very nearly to the powers and duties of the president and vice president of the United States. The salary of the governor, as established by law, is four thousand dollars a year; that of his private secretary, six hundred dollars. The lieutenant governor has six dollars a day for his attendance as president of the senate, or president of the court for the trial of impeachments, and the correction of errors; and also as commissioner of the land office and canal fund, when not attending the session of the senate, or of the court of errors, or impeachments. He is also allowed six dollars for every twenty miles travelling, in going to, or returning from, the place of meeting in the discharge of these duties.

The governor also, like the president, is aided, in the administration of the government, by numerous subordinate officers. The principal of these executive officers are, the secretary of state, the comptroller, the treasurer, the attorney general, and the surveyor general.

The *secretary of state* has the custody of all the books, records, deeds to the state, parchments, maps and papers

What are the highest executive officers of the state? What are their duties? What is their compensation? What are the other principal executive officers? What are the duties of the secretary

to be deposited in his office. He receives from the legislature bills that have become laws, and causes them to be published. He distributes the printed laws and journals of each session, among the members of the legislature, the executive and judicial officers, the county and town clerks, and other officers entitled to receive them. Four copies are also sent to the secretary of state of the United States. The secretary of state has a deputy, who may perform the ordinary duties of the office. The secretary of state performs the duties of superintendent of common schools. For the duties of both these offices, he has a salary of one thousand five hundred dollars. The deputy secretary receives one thousand dollars: he serves as clerk, also, of the commissioners of the land office.

The *comptroller* superintends the fiscal or pecuniary matters of the state. He exhibits to the legislature, at its annual meeting, a statement of the funds of the state, of its revenue, and of the expenditures during the preceding year, with an estimate of the expenditures to be defrayed from the treasury for the ensuing year, specifying the objects to be provided for by law. He also suggests plans for improving and managing the revenues; keeps and settles all the accounts of the state; and draws warrants on the treasurer for the payment of all moneys directed by law to be paid out of the treasury: and he may, in behalf of the people of the state, when necessary, borrow money to pay demands against the state. Leases, mortgages, bonds, and other securities given to the state, are kept in his office. He has a deputy who may perform most of the duties of his office. The salary of the comptroller is two thousand five hundred dollars; that of his deputy, one thousand five hundred dollars.

of state? What is his salary? That of his deputy? What are the duties of the comptroller? His salary? That of his deputy? What are the duties of the treasurer? His salary? That of his

The *treasurer* receives all moneys paid into the treasury of the state. He is required to give a bond in the sum of fifty thousand dollars, with four or more sureties, for the faithful performance of his duties. He deposites the money that comes into his hands, in such banks in the city of Albany, as shall be deemed safe, and shall pay the highest rate of interest to the state; and he pays all warrants drawn on the treasury by the comptroller. The salary of the treasurer is one thousand two hundred and fifty dollars; that of his clerk, eight hundred dollars.

The *attorney general* prosecutes and defends all the suits in which the state is interested. And he may not act as attorney in any private suit, unless the people of the state be interested in the event. He receives a salary of one thousand dollars.

The *surveyor general* superintends surveys and sales of lands belonging to the state. He keeps in his office a map, and when the bounds of a town cannot be delineated, he may order a special survey to determine disputes. He has a salary of eight hundred dollars a year.

The salaries of the preceding, and other officers of the government, legislative, executive and judicial, together with other expenses in administering the government of the state, are paid out of the general fund. The *general fund* consists of the stocks, debts, and other property of the state, together with the increase and revenue thereof; all moneys paid into the treasury for duties on pedlers; and the fees of office received by the secretary of state, the comptroller, and the surveyor general. These officers receive fixed salaries; and their fees, which are established by law, are paid into the treasury, and constitute a part of the general fund.

clerk? What are the duties of the surveyor general? His salary? How are the expenses of the state officers paid? Of what is the *general fund* composed?

CHAPTER IV.

Of Counties.—County Officers—their Powers and Duties.

For the more convenient administration of justice, it has been found necessary to divide states of any considerable extent, into districts, with administrations adapted to the management of their local affairs. The first grand division in these United States, is into *counties*, or *shires*: these are again subdivided into *towns*. These districts correspond to similar institutions in England, the country of our ancestors.

A county or town, as a body corporate, has certain powers and rights. A *corporation* or body politic, means a number of persons formed or *incorporated* into one body, with the power of acting under one name. The word *corporation* is derived from the Latin, *corpus*, meaning body. Corporations have a perpetual succession. For, when the persons constituting a corporation shall have passed off, and been succeeded by others, the corporation will still exist. Every state, county or town, as well as every bank or turnpike company, acting under a common name, by virtue of a public law, is a corporation.

Each county in the state has a capacity to sue and be sued; to buy and hold lands within its own limits; to buy and hold such personal property as may be necessary to the exercise of its corporate powers; and to make orders for the regulation and use of its property as the interests of its inhabitants may require.

How are states divided? For what purpose? What is a *corporation*? What capacity or powers does a county possess? What

The principal county officers are, the board of supervisors, a county treasurer, a clerk, a sheriff, four coroners, a surrogate, and a district attorney.

The *board of supervisors* consists of the supervisors of all the towns in the county, who meet annually on a day designated by law, which is, in most of the counties, in the month of October or November; and they may also hold special meetings whenever it may be necessary. Their duties and powers are, to make orders respecting the corporate property of the county; to examine and settle the accounts against the county, and to order the raising of money to defray its expenses; to provide for repairing the court house and jail, and fitting them for the purposes for which they are required. They choose one of their number, at every meeting, to preside as chairman, and appoint some proper person to be their *clerk*, whose duty it is to record the proceedings of the board, and to preserve and file all accounts passed upon by the board.

The *county treasurer* is appointed by the board of supervisors, and holds his office at their pleasure. He gives a bond, with sureties, for the faithful execution of his duties. It is his duty to receive all moneys belonging to the county, and all moneys belonging to the state, that are by law directed to be paid to him; and to pay and apply such moneys in the manner required by law, and to render a true account thereof to the board of supervisors and to the comptroller of the state when required.

The *county clerk* is elected by the people at the annual election, and holds his office for three years. He has the custody of all the books records, deeds, parchments, maps

are the principal officers appointed and elected in each county? What are the powers and duties of the board of supervisors? How is the county treasurer appointed? What are his duties? How is the county clerk elected? What are his duties? Of his deputy?

and papers, relating to the business of the office. He records in books prepared for that purpose, all deeds, mortgages, or other conveyances, and all papers and documents required by law to be recorded. He also files all papers required to be filed in his office. He appoints a *deputy clerk*, who is authorized to perform the duties of the office. County clerks, except in the county of New York, serve also as clerks of all the county and circuit courts held in their respective counties.

Sheriffs also are elected at the annual elections in November, for three years: they may not be re-elected for the next three years. A sheriff is required to give a bond, with sureties, in the penal sum of twenty thousand dollars, for the faithful performance of his duties; and this bond is to be renewed every year. He appoints an *under sheriff*, who performs the duties of sheriff when the office shall be vacant, and as many deputies as he may think proper. It is the duty of a sheriff to attend the sitting of all courts held in the county; to serve all processes directed to him by any of the state or county courts; to have the custody of the jails and prisons, and the prisoners in the same. Executions issued out of any courts in the state, against the property of any person, are directed to the sheriff of the county in which the person resides.

Coroners. When a person has been slain, or has suddenly died, or has been dangerously wounded, notice is given to the coroner, who goes to the place where such person shall be, and summons a jury to make inquisition respecting such death or wounding. Witnesses are also called, among whom there is a physician or surgeon.—The jury upon inspecting the body of the person dead or

How are sheriffs elected? What are his duties? What subordinate officers does he appoint? What are the duties of coroners?

wounded, and hearing the testimony, deliver to the coroner their inquisition, in writing, stating in what manner the person came to his death, or was wounded. If a murder or assault has been committed, the coroner binds over the witnesses to appear and testify before the grand jury at the next criminal court to be held in the county. An examination of this kind, into the cause of a person's death, is called a *coroner's inquest*. Coroners also perform the duties of sheriff, when vacancies happen in the offices of both sheriff and under sheriff.

A *surrogate* is a person that is appointed to make inquiry into, and settle the estates of persons deceased. He examines witnesses to prove whether the wills made by such persons are valid or not. If he be satisfied that a will was executed as the law requires, he approves of it. If there be no will, or none that is legal, he appoints an administrator to dispose of the property, and settle the estate. The person exercising the duties of surrogate, is in some states called a judge of probate. *Probate* is a Latin word, meaning proof; and is used in law to signify the proving of a will. Surrogates, in this state, are appointed by the governor and senate.

The *district attorney* attends the courts of oyer and terminer and jail delivery, and general sessions, and conducts all prosecutions for crimes cognizable in such courts.

What other duties sometimes devolve on them? What are the duties of a surrogate? Of a district attorney?

CHAPTER V.

Of Towns.—Election of Town Officers—their Powers and Duties.

Towns are made to comprise such portions of territory as will admit of a direct participation in their government by all the people. The government of a town is therefore purely *democratic*. Towns are incorporated by a general law of the state; and their organization is therefore uniform, and their powers and privileges are the same, throughout each state.

A town, as a body corporate, may sue and be sued; buy and hold lands, within its own limits, for the use of its inhabitants; buy and hold personal property necessary to the exercise of its corporate powers; and make such orders for the disposition and use of its property, as the interests of its inhabitants may require. The electors of a town have power, at their annual town meeting, to direct money to be raised for town purposes; to establish the compensation of certain town officers; to make regulations as to fences; to direct what sum shall be raised in the town for the support of common schools; and to perform sundry other acts that relate to their internal affairs.

Town Meetings. A meeting of the citizens qualified to vote, is held in each town in the state, on some Tuesday between the first Tuesday in February and the first Tuesday in May, in each year, for the election of town officers. The officers to be elected are, a supervisor; a town clerk; assessors, not less than three, nor more than

Of what character is the government of a town? How incorporated? What are its corporate powers? When are town meet-

five; a collector; two overseers of the poor; three commissioners of highways; three commissioners, and three inspectors of common schools; constables, not more than five; a sealer of weights and measures; as many overseers of highways as there are road districts in the town; and so many poundmasters as the electors may determine. All the town officers must be elected by ballot, except the sealer, overseers of highways, and pound masters; who may be elected, either by ballot, by ayes and noes, or by the rising and dividing of the electors, as the meeting may determine. All the officers voted for by ballot, shall be named in the same ballot.

Supervisor. The supervisor receives and pays over all moneys raised in the town for defraying town charges, except those raised for the support of highways and bridges, of common schools, and of the poor, where poor moneys are raised. He prosecutes for penalties of fifty dollars or under; keeps account of moneys received and disbursed by him, and accounts annually to the justices and town clerk; attends the annual meeting of the board of supervisors of the county; and lays before such board all accounts presented to him against the town.

Town Clerk. The town clerk keeps the records, books and papers of the town, and files all papers required to be filed in his office, and records the minutes of the proceedings of town meetings.

Assessors—Taxation, &c. It is the duty of every member of the community to contribute to its support and prosperity. This duty results from the relations of men in civil society. Wherever this duty exists, there exists also, of necessity, the right to enforce it. Taxes, to be

ings in the state of New York held? What officers are chosen? How are they voted for? What are the powers and duties of a supervisor? Of a town clerk? What is the proper principle of

equitable, ought to be laid, not upon persons, but upon the property possessed or used by individuals. It is upon this principle that taxation is founded in this country.

All lands, and all personal estate, are liable to taxation in this state. *Lands*, *real estate*, and *real property*, have the same meaning, and include land, with all buildings, and other articles erected or growing thereon. *Personal estate* and *personal property* include all household furniture, moneys, goods, chattels, debts due from solvent debtors, &c.

Assessors pass through the town, and set down the names of all taxable inhabitants, and the value of all the real and personal property of each, deducting from his personal property the debts owing by him. After the assessment roll shall be completed, notices shall be put up in three or four places in the town, stating that the assessment roll is completed, and left with one of their number to be designated in the notice, where the same may be examined by any of the inhabitants during twenty days; at the expiration of which time, the assessors meet at the time specified to review their assessments. Persons who conceive themselves aggrieved by too high a valuation of their property, make affidavit of its true value; and the assessors then reduce their assessments accordingly. The assessment rolls of the several towns in the county are examined by the board of supervisors at their annual meeting; whose duty it is to equalize the valuations of one town with those of another. The tax is then estimated, which is generally done by a clerk appointed for that purpose, and set down opposite the name and amount of the property of each individual on the roll. A copy of the assessment roll is then delivered to each of the super-

taxation? What is *real property*? *Personal property*? How are assessments made? By what officer, and how, are taxes collected?

visors, who delivers it to the clerk of his town, to be kept for the use of the town, and another copy is to be delivered to the collector of the town by the fifteenth day of December; to which roll is annexed a warrant, under the hands and seals of the board of supervisors, commanding him to collect from the several persons named in the roll, the amount of tax opposite their respective names.

The *collector*, upon receiving the tax list and warrant, collects the taxes. If any person shall refuse or neglect to pay the tax imposed on him, the collector shall levy the same by distress and sale of the property of the person from whom the tax is due. The collector is required to pay out of the moneys by him collected, to the commissioners of common schools, overseers of the poor, (where there is no poor house in the county,) commissioners of highways, and the supervisors, the sums required in the warrant to be paid to them; and the remainder is paid to the county treasurer, first retaining the compensation to which he is entitled.

Overseers of the Poor. It is the duty of the overseers of the poor, on application being made to them for the relief of poor or indigent persons, to provide for their support in the town; or, in a county in which there is a poor house, for their removal to the poor house of the county, to be supported at the expense of the county.

Commissioners of Highways have the care and superintendence of the highways and bridges in the town: and it is their duty to alter and lay out reads, and build bridges, and to cause them to be repaired. They divide the town into so many road districts as are judged convenient, and require the overseers of highways to warn all persons in their respective districts to work on the highways, the number of days they shall have been assessed by the

commissioners. Every person owning or occupying land in the town, and every male inhabitant of the age of twenty one years, residing in the town where the assessment is made, may be assessed to work on the highways.

Commissioners of Common Schools divide their town into school districts, number them, and deliver the numbers and description thereof to the town clerk to be recorded. They also apportion the school moneys received by them among the several districts. Commissioners are authorized to serve as inspectors of schools.

Inspectors of Common Schools examine all persons offering themselves as teachers; and if they are satisfied as to the qualifications of a candidate, in respect to moral character, learning and ability, they deliver to the teacher a certificate signed by them, stating that they believe him to be duly qualified. It is also made their duty to visit all the schools in their town, at least once a year, to examine into their state and condition; and to give their advice as to the government of the schools, and the course of studies to be pursued in them.

Constables. The duties of a constable are very numerous. His principal duties are, to serve all processes issued by justices of the peace, of a civil and criminal nature, to collect debts on execution, to aid in keeping the peace, and to apprehend and secure criminals. He is properly an *executive* officer, as his business relates to the execution of the laws.

Justices of the Peace. Four justices are chosen in each town in the state, (except in cities,) whose duty it is to administer justice in the town in which they are chosen. As these are judicial officers, their powers and

highways? Commissioners of common schools? Inspectors of common schools? Constables? Justices of the peace?

duties may be considered as more properly falling under the head of "Judiciary," or "Courts of Justice," where they will be given.

CHAPTER VI.

Judiciary of the State of New York.

No government can be said to be complete in which provision is not made for the effectual administration of justice. The end of all judicial power is, first, to oblige citizens to do what they should do between themselves, and to make reparation for wrongs; and, secondly, to punish them for crimes, and offences against the community. It must therefore be of the first importance, that persons possessing the soundest judgment, and unyielding integrity, be always selected to exercise this power. To secure this object, the constitution has made ample provision in the general government; and the state constitutions, generally, embrace similar provisions.

The several courts constituting the judiciary of the state of New York, are the following:

Court of Errors. This court also tries impeachments. It consists of the president of the senate, the senators, the chancellor, and the justices of the supreme court. As a court of errors, its business is to decide cases brought by appeal from decrees in chancery, and by writ of error from judgments of the supreme court. Upon questions

What is the object of judicial power? Of what officers is the court of errors composed? What are its powers? In whom are

affecting the merits of the cause, or any point decided in either of the latter courts, the chancellor or the justices, from whose decision the appeal is brought, have no voice in affirming or reversing the decree or judgment. It has full power to correct and redress all errors that may happen in those courts. The judgment of the court of errors is remitted to the lower court from which the appeal was brought, where proceedings shall be had to carry the judgment into effect.

Court of Chancery. The powers of this court are vested in the chancellor. Every circuit judge is vice chancellor within the limits of his circuit, and has all the original powers vested in the chancellor, in matters that arise in his own circuit or wherein the defendants or either of them, reside within it, subject, however, to the appellate jurisdiction of the chancellor. And all appeals from any order or decree made by a vice chancellor to the court of errors, must first be reviewed by the chancellor, and by him reversed, or affirmed, except in cases wherein the latter is interested.

The original intention of instituting this court was, to supply the defects of the common law; and its jurisdiction extends to all cases in which the common law affords no relief, or not that relief which equity requires. If a person refuse to fulfil or execute a contract for the sale of land, the vendor may sue at common law, and obtain damages; but to compel the performance of the contract, a decree of the chancellor is requisite; and if the vendor will not execute a deed of conveyance, the same may be done by a *master in chancery*, of whom one or more are appointed in every county, and who perform many other duties, by order of, and as assistants to, the chancellor:

the powers of the court of chancery vested? For what general purpose was this court instituted? What are the duties of a ma-

stating accounts, estimating damages, administering oaths, taking affidavits, selling land, &c. This court also, by *injunction*, prohibits persons from doing acts that are against equity. A judgment debtor may be restrained from disposing of his property; banks may be restrained from doing further business in case of supposed insolvency or unfairness in their operations; proceedings in law may be stayed; persons may be restrained from committing wastes or injury on lands; and many other like restraints are imposed, and protections afforded, by injunction. The chancellor has the power also of dissolving marriage contracts, and of decreeing divorces.

In this court, no process is issued, until a bill of complaint shall have been filed by the plaintiff with the clerk of the court, who then issues a subpoena, commanding the party complained of to appear before the court on a day mentioned in the subpoena. The defendant makes his answer, also in writing. Witnesses are examined on both sides. These proceedings are had before an *examiner in chancery*, who transmits them, with all the testimony, to the vice chancellor for adjudication. If the defendant does not appear to answer to the complaint, the decree of the court is made upon the facts set forth in the complainant's bill. *Solicitors in chancery* are in the nature of attorneys in courts of common law; they manage the pleadings, prepare questions for the witnesses, and do every thing that is done in a cause where the party does not appear in person. Masters and examiners in chancery are appointed for every county in the state, by the governor and senate, for the term of three years; clerks are appointed, and solicitors are licensed, by the court.

ter in chancery? For what purposes are injunctions laid? What is the coarse of proceeding in a chancery suit? What are the duties of an *examiner*? Of a *solicitor*? How are the several officers

Supreme Court. The principal business of this court is to review the proceedings of the lower courts, in cases that have been brought before it by appeal. It holds four terms annually. Issues involving sums in controversy exceeding fifty dollars, are joined in the supreme court.

Circuit Courts. The state is divided into eight circuits corresponding to the eight senate districts; in each of these there is a judge, who holds annually at least two circuit courts, and courts of oyer and terminer and jail delivery, in every county. He has power, and it is his duty, to try issues joined in the supreme court; to record all non-suits and defaults before him; and to return the proceedings into the supreme court. His duty as judge at the court of oyer and terminer is, to try crimes and misdemeanors, committed or triable in the county. He has power to try all indictments found in the court of general sessions. Crimes and misdemeanors of the highest grade, are tried in this court.

Courts of Common Pleas and General Sessions. A court of common pleas, consisting of a first judge and four associate judges, is held in every county, and has power to try actions arising within the county, and all transitory actions, although the same may not have arisen within the county; and to hear and determine appeals from justices' courts. It has also the power to try issues joined in the supreme court, as the circuit court. Any three judges of the county courts have power to hold a court of common pleas, or of general sessions of the peace. When a sufficient number of judges shall not appear at a court of general sessions, justices of the peace shall be associated with a judge or judges. This court

of this court appointed? What is the business of the supreme court? How constituted? (See constitution.) How are circuit courts constituted? What are their powers? How are courts of common pleas

has power to try and punish all crimes and misdemeanors not punishable with death, or imprisonment for life; and to send all indictments for offences not triable therein, to the next court of oyer and terminer and jail delivery for trial. The duties of this court are numerous.

The salaries and compensation of judicial officers are as follows: The chancellor and the three justices of the supreme court have a salary of two thousand five hundred dollars each; the circuit judges, sixteen hundred dollars each; senators as members of the court of errors, when the legislature is not in session, have the same compensation as is received by members of the legislature. Judges of county courts receive two dollars a day.

Courts of Special Sessions, consisting of three justices of the peace, or of two justices and one judge of the county court, may be held for the trial of certain offences against the peace.

For the administration of justice in the several cities in this state, or most of them, special provisions are made by law; and their courts are in many respects differently constituted from those in the several towns and counties in the state.

Jurors. Juries for the trial of issues of fact are thus obtained: The supervisor, town clerk and assessors of the several towns, make a list of persons to serve as jurors, who shall be free from all legal exceptions, of approved integrity, of sound judgment and well informed. The names of these persons are transmitted to the county clerk; from which he draws, fourteen days before the holding of every court, the names of thirty six persons

and general sessions constituted? What are their powers? Courts of special sessions?

How are lists of jurors prepared? How many are drawn? By whom? In what manner? How are lists of grand jurors prepar-

to serve as jurors, and any additional number that shall have been ordered. The slips of paper on which the names are written, are put into a box, and shaken so as to mix them as much as possible; and they are then drawn out by the clerk, in presence of the sheriff and a judge of the county. The list so drawn is then delivered to the sheriff, who summons the persons named therein to attend the sitting of the court. These are called *petit juries*, twelve of whom sit on every trial, and all must agree in order to conviction or judgment.

Grand Jurors are obtained in the same manner as *petit jurors*, except that the list is prepared by the supervisors at their annual meeting. Not more than twenty three, nor less than sixteen persons, are sworn on any *grand jury*. One of their number is appointed by the court as foreman, who administers the oaths to witnesses appearing to testify before the jury. Every *grand jury* appoints one of their number to be clerk. The minutes are preserved and delivered to the district attorney, when so directed. It is not the business of *grand juries* to try issues. They attend during the sitting of the courts, to hear complaints that may be brought before them for breaches of the peace, or for crimes; and declare whether or not the person complained of shall be put upon his trial. If twelve of the jurors are of opinion that he ought to be tried, the district attorney draws up an *indictment*, stating the crime charged upon him. The foreman signs it in behalf of the jury, and it is carried by the jury to the court. The accused is then called to be put upon trial. If he has never been arrested, a warrant is issued to arrest him; and if he is not ready for trial he is put into prison, unless he gives bail for his ap-

ed? What number may be sworn to serve? How is the business of the jury conducted? What number must be agreed in order to

pearance for trial at the next court. On indictment for capital offences, this privilege may not be given.

Justices' Courts. These are courts of the most limited jurisdiction, and are held by the justices elected in each town. They have power only to try causes wherein the damages claimed do not exceed fifty dollars; excepting that, in actions commenced by attachment of property, wherein the damages claimed do not exceed one hundred dollars, they have jurisdiction; and they may also take and enter judgment on confession of a defendant for the sum of two hundred and fifty dollars. But they have no power to try assault and battery, false imprisonment, slander or malicious provocation; nor any matters wherein the sum total of the accounts of both parties is more than four hundred dollars. Any justice being a tavern keeper, shall have no power other than that of issuing executions upon judgments rendered by him before he became so disqualified. Actions must be brought before some justice of the town wherin either a plaintiff or defendant resides, or of the town next adjoining. But if a defendant has absconded, the suit may be brought before a justice of the town wherein the defendant or his property may be. If the plaintiff or defendant be a non-resident of the county, the suit may be brought in the town wherin the plaintiff or defendant may be.

Either party thinking himself aggrieved by a judgment rendered before a justice, for damages not exceeding twenty five dollars, may remove the same by a writ of *certiorari*, to the court of common pleas. And if the judgment exceed that amount, the party to the judgment may *appeal* therefrom to the said court. In a case brought by *certiorari*, the judges act without jury, and give their

indict? How far does the jurisdiction of a justice' court extend? In what case does a justice become disqualified? Where must a-

judgment upon the affidavit of the party removing the suit, and the return of the justice, in which the testimony and proceedings before the justice are set forth. Issues of fact brought up, on appeal, are tried by a jury, or referred in the same manner as an original suit. Juries are allowed in all cases in justices' courts, if desired by either party.

CHAPTER VII.

Of Crimes and their Punishment.

CRIMES made punishable with death by the laws of the state of New York, are, (1.) treason against the people of the state; (2.) murder; (3.) arson in the first degree. *Treason* is defined to be levying war against the people of the state; a combination to usurp, by force, the government of the state; or adhering to, and aiding, the enemies of this state, while separately engaged in war with a foreign enemy. *Murder* is the killing of any person in the following cases: (1.) when perpetrated from a premeditated design to effect the death of any human being; (2.) when perpetrated by any act imminently dangerous to others, and evincing a depraved mind, regardless of human life, although without a premeditated design to effect death; (3.) when perpetrated without any design to effect death, by a person engaged in the com-

tions be commenced? How are cases removed to the court of common pleas?

What crimes are punishable with death in the state of New York?

mission of a felony; and (4.) the wounding of a person in a duel, though it be done out of the state, who shall die in the state; and every second engaged in such duel shall be guilty of murder. *Arson* in the first degree, is wilfully setting fire to, or burning, in the night time, a dwelling house in which there is, at the time, some human being; and every house, prison, jail or other building, that shall have been usually occupied by persons lodging therein at night, is deemed a dwelling house of any person so lodging therein.

Manslaughter in the first degree, consists in killing a human being, without a design to effect death, by the act of another engaged in perpetrating, or attempting to perpetrate a crime or misdemeanor not amounting to felony; or in assisting another in committing self-murder. Manslaughter in the second degree, is the killing of a human being, without a design to effect death, but in a cruel, unusual manner; or in unnecessarily killing another, while resisting an attempt by such other person to do an unlawful act, or after the attempt shall have failed. Manslaughter in the third degree, is the killing of another in the heat of passion, without a design to effect death, by a dangerous weapon; or the involuntary killing of a person by the negligence of another engaged in committing, or attempting to commit, a trespass; or in permitting a mischievous animal, by its owner, to go at large, if the animal shall kill a human being who shall have taken due precaution to avoid the animal; or the administering, by a physician in a state of intoxication, and without a design to effect death, of any poison, drug or medicine, which shall produce the death of another; or in causing death

What constitutes treason? Murder? Arson in the first degree? What constitutes manslaughter in the first degree? Second degree? Third degree? Fourth degree?

by persons navigating steam-boats or other vessels, through culpable negligence or ignorance. Manslaughter in the fourth degree, is the involuntary killing of another by any weapon, or by means neither cruel nor unusual, in the heat of passion. Manslaughter in the first degree is punishable by imprisonment in the state prison, for a term not less than seven years; in the second degree, not less than four, nor more than seven years; in the third degree, not less than two, nor more than four years; in the fourth degree, two years, or in a county jail, not more than one year, or by fine not exceeding one thousand dollars, or both.

Homicide is the taking of a person's life, and includes the crime of murder. *Homicide* is also excusable, or justifiable. *Excusable homicide* is the killing of a person by accident, or while lawfully employed, without the intention of doing wrong. *Justifiable homicide* is putting one to death in pursuance of a legal sentence; or in defending one's person, or property, or in defending the person of another. In these cases, no punishment is inflicted.

Any person who shall *maim* another, from premeditated design, by cutting out or disabling the tongue, or any other member or limb of any person; or who shall inveigle or *kidnap* another, or shall be accessory to any kidnapping; or who shall sell kidnapped blacks; or who shall decoy and take away children; or who shall expose children in the street or highway to abandon them; or who shall commit or attempt an assault with intent to kill, or to commit any other felony, or in resisting the execution of a legal process; or who shall administer poison whereof death shall not ensue; or who shall poison any

What is *homicide*? When is it *excusable*? When *justifiable*? What other offences against the person are here mentioned? How

spring, well or reservoir of water; such person shall be liable to be imprisoned in the state prison for a term not exceeding ten years; or to be imprisoned in the county jail and fined.

Arson in the second degree, is the burning of, and setting fire to, an inhabited dwelling house in the day time; or setting fire to, in the night time, any shop, warehouse, or other building, endangering an inhabited dwelling: Arson in the third and fourth degrees consists in the burning of buildings other than dwellings, and other property of various kinds. Arson in these several degrees, is punishable by imprisonment, for terms varying from two to ten years.

Burglary, in the first degree, is the breaking into and entering, a dwelling, in the night time, with intent to commit some felony. The same act, when perpetrated in the day time, or under such circumstances as shall not constitute burglary in the first degree, is burglary in the second or third degree. The crime of burglary, in the several degrees, is punishable by imprisonment in the state prison for terms, the first degree, not less than ten years, the second, not more than ten, nor less than five years, and the third, not more than five years.

Forgery consists in falsely making, counterfeiting, or altering any instrument of writing with intent to defraud or wrong any person. There are various degrees of forgery; and they are punishable in the same manner, and to the same extent, as burglary. *Counterfeiting* is a term used to signify the forging of false coins, or false bank bills, or the fraudulent altering of true ones. This crime consists, not only in the actual making or passing such

punished? In what does *arson* in the second degree consist? Third and fourth degrees? How punishable? What is *burglary*? How are the several degrees punishable? What is *forgery*? Counter-

false coins or bills, but also in having in possession any engraved plate, or bills unsigned, which are intended to be used for such purpose.

Robbery is the taking of property from one's person by violence, or threats of violence, and by putting the person in fear of his life, or of grievous injury. Robbery in the first degree, is punishable by imprisonment not less than ten years; the second degree, not more than ten years.

Larceny is the term used to signify *theft* of all sorts. If the amount of property taken exceed twenty five dollars, the crime is called *grand larceny*; if the amount be twenty five dollars or under, it is adjudged to be *petit larceny*. The former is punishable by imprisonment in a state prison for a term not exceeding five years; the latter, by imprisonment in a county jail, not longer than six months, or by fine not exceeding one hundred dollars, or both.

Embezzeling is the converting, by any person, to his own use, of property entrusted to him by another, and is punishable in the same manner as the stealing of property of like value.

Perjury is wilfully swearing or affirming falsely to any material matter, upon any oath, legally administered. If committed on the trial of any indictment for a capital offence, or for any other felony, it is punishable by imprisonment not less than ten years; committed on any other judicial trial or inquiry, not exceeding ten years. *Subornation of perjury* is the procuring of another to swear falsely, and is punishable in the same manner, and to the same extent, as perjury.

feiting? What is *robbery*? How punishable? What is *larceny*? How punishable? What is *embezzeling*? What is *perjury*? What is *subornation of perjury*? *Eribery*? How punishable? What is

Bribery is the offering to any person in the administration of justice, any reward, to influence his vote, opinion or judgment on any question; and is punishable by imprisonment in a state prison for a term not exceeding ten years, or fine not exceeding five hundred dollars, or both. Any person accepting such bribe, shall be punished in like manner, and shall forfeit his office, and be forever disqualified from holding any public trust or appointment.

Duelling is the fighting with a deadly weapon, in single combat with another. Any person killing another in a duel, is subject to the punishment of death. If death does not ensue, the offence is punishable by imprisonment in a state prison for a term not exceeding ten years. Challenging, or accepting a challenge, to fight, or to be present as a second, is punishable by imprisonment not exceeding seven years.

Offences punishable by Imprisonment in a County Jail, and by Fines. Among these are the following: Petit larceny; attempting to extort, by threats, any property or pecuniary benefit; fraudulent conveying or concealing property to defraud creditors; conspiracies by two or more persons with intent to commit an offence; imprisoning or arresting another without legal authority, or under a false pretence; receiving a reward to conceal a misdemeanor; voting at an election more than once; maliciously killing or wounding animals that belong to another, or cruelly beating animals, whether his own or those of another; wilfully opening or reading sealed letters addressed to another, except in cases punishable by the laws of the United States; removing or defacing any monument, milestone or guide board. These, besides many other offences not here enumerated, are punishable by fine or im-

prisonment in the county jail, or both. And any person having been convicted of petit larceny, or an attempt to commit an offence, which, if perpetrated, would be punishable by imprisonment in a state prison, shall, for a second offence, be imprisoned in such prison.

Arrest and Examination of Offenders. Any judge, or justice of any court in the state, has power to issue process for the apprehension of persons charged with an offence. When a complaint is made to such magistrate, he examines the complainant on oath, and any witnesses that may be produced; and if it appears that an offence has been committed, he issues a warrant, reciting the accusation, and commanding the officer to whom it is directed, to bring the accused before such magistrate. The magistrate first examines the complainant and witness in support of the prosecution: he next examines the prisoner, who is not on oath, and then his witnesses. The evidence is reduced to writing by the magistrate, and signed by the witnesses. If it shall appear that an offence has been committed, the magistrate binds by recognizance the prosecutor, and all material witnesses, to appear and testify against the prisoner at the next court having cognizance of the offence, and in which the prisoner may be indicted. If the offence be one which may be tried by a court of special sessions, of three justices of the peace, he may be forthwith tried by such court, if he choose to be so tried; but if not, and if the offence be bailable, the magistrate may take bail for the prisoner's appearance at the next court having cognizance of the offence. If no bail be offered, or the offence be not bailable, the prisoner is committed to jail. But in all cases to be tried at such court, the prisoner shall first be indicted by a grand jury.

ed? How punished? How are officers arrested and examined? How dealt with?

CHAPTER VII.

Of the Domestic Relations.

Husband and Wife. Marriage, to be valid in law, requires the consent of parties capable of contracting. Males at the age of seventeen, and females of the age of fourteen years, may contract marriage. Idiots and lunatics cannot legally contract marriage. No person can marry while the husband or wife is living, except in cases of divorce; or when the husband or wife of the party who re-marries, remains without the United States for five years together; or when one of the married parties shall have absented from the other for five years, and the party re-marrying not knowing the other, who had absented, to be living within that time; or if the former husband or wife had been sentenced to imprisonment for life.

The husband and wife are in law regarded as one person; and the husband, upon marriage, becomes seized of the freehold of his wife, and takes the rents and profits during their joint lives; and if the wife dies first, and there be no children, her heirs succeed immediately to the estate. If there has been a child born alive, the husband takes the estate for life, and on his death, it goes to the wife or her heirs. The husband, on marriage, becomes possessed, absolutely, of all the personal property of his wife; and on his death it goes to his representatives. The

At what ages may parties lawfully contract marriage? In what cases may they re-marry? At whose disposal is a wife's estate after marriage? Who inherits the estate? What other rights does the husband acquire by marriage? What are the obligations of a

husband is answerable for her debts before coverture; but if they are not recovered during coverture, he is discharged. *Coverture* is the condition of a married woman, who, by the laws of the land, is in the power of the husband. A husband, dying in the life time of his wife, may, by will, cut her off from all his estate but a right of dower; that is, the right to have, for life, the use of one third of all the real estate which he owned during marriage, and whereof she has not barred herself by joining with him in a deed.

The husband and wife cannot be witnesses for or against each other; but where the wife acts as her husband's agent, her declarations may be admitted in evidence to charge the husband.

Parent and Child. The duties of parents to their children, as being their natural guardians, consist in maintaining and educating them during the season of youth and infancy; and the parent is obliged, during the minority of the child, which, in law, means *infancy*, or, of an age under twenty one years, to provide for his support and education; and he may be sued for necessaries furnished under just and reasonable circumstances. The father is bound to support his minor children, if he be of ability, even though they have property of their own; but this obligation does not extend to the mother. But a father is not bound by the contract of his son, even for articles suitable and necessary, unless an actual authority be proved, or the circumstances be sufficient to imply one; or unless a clear omission of duty on the part of the father renders assistance to the child necessary. The father has a right to the labor or services of his children, and he may sue any other person for the value of such labor.

father to children? What is *infancy* in law? How far is a father bound by the contract of his son? What are the relations between

Guardian and Ward. The relation of guardian and ward is nearly the same as that of parent and child. A father may dispense of the custody and tuition of his child during its minority, or for a less time, to another person, who thereupon becomes the *guardian*, and the infant is called *ward*. A minor having no guardian, may, at the age of fourteen years, apply to a surrogate for the appointment of such guardian as the minor may nominate. If the minor be under the age of fourteen years, a relative or other person, in his behalf, may so apply for the appointment of a guardian. A guardian in *socage*, that is, a guardian who has the custody of a minor's property as well as of his person, is required to keep safely such property, and to deliver the same to his ward when he arrives at full age.

Master and Apprentice. Male infants, and unmarried females under eighteen years of age, with the consent of proper persons, may bind themselves, in writing, to serve as apprentices to some art or trade; if males, until the age of twenty one years, and, if females, until the age of eighteen years, or for any shorter time. Consent shall be given by the father; or, if dead, or not in a legal capacity, by the mother; and, if she refuse, or be not in a legal capacity, then, by a guardian duly appointed; or, if there be no guardian or other person, by the overseers of the poor, or two justices of the peace of the town, or a judge of the county court. County superintendents of the poor may bind out any child under the ages above specified, who may be sent to the county poor house, or who is become chargeable to the county. In all indentures, by the officers of any town or county, binding poor chil-

guardian and ward? How may guardians be appointed? What is a guardian in *socage*? To what age may apprentices be bound? Whose consent is necessary? How is the education of poor chil-

dren as apprentices or servants, a covenant must be inserted to teach them to read and write; and, if a male, the general rules of arithmetic. For refusal to serve and work, infants may be imprisoned in jail, until they shall be willing to serve as apprentices or servants.

Hired Servants. The relation between a master and a hired servant, rests altogether upon contract. The one is bound to render the service, and the other to pay the stipulated consideration. But if the servant hired for a definite term, leaves the service before the end of it, without reasonable cause, he loses his right to wages for the period he has served. And he may be dismissed for cause, before the expiration of the term. The master is bound by the act of his servant, either in respect to contracts or injuries, when the act is done by the authority of the master. If the servant does an injury fraudulently, while in the employment of his master, both have been held liable in damages; and if a servant employs another servant to do his business, and, in doing it, the servant so employed is guilty of an injury, the master is liable.

CHAPTER VIII.

Of the Right of Property.

A material object of government is to secure the right to acquire property, and to make use of it. Property, as stated in a preceding chapter, is either real or personal;

What relation subsists between masters and
hired servants?

the latter consisting of what is movable from place to place, the former, of lands and things built or growing thereon. Fruit, grain, trees, minerals, &c. become personal property, when separated from the land.

Every citizen of the United States is capable of holding lands, and of taking the same by descent, devise or purchase; and of aliening or conveying away such estate. Estates in lands are divided into estates of inheritance, estates for life, estates for years, and estates at will and by sufferance. An *estate of inheritance* is termed a fee simple, or fee. A fee is an estate of inheritance in law, belonging to the owner, and transmissible to his heirs. No estate is deemed a fee, unless it may continue forever. *Fee simple* is a pure inheritance, clear of any qualification or condition, and it gives a right of succession to all the heirs generally, provided that they shall be of the blood of the first purchaser, and of the person last seized. An *estate for life*, is an estate conveyed to a person for the term of his natural life. Estates for life and estates of inheritance, are called *freehold*s. An *estate for years* is a right created by a lease, or a contract for the possession and profits of land, for a determinate period, with the recompence of rent. An *estate at will* is where one man lets land to another, to hold at the will of the lessor. An *estate at sufferance* is where one has come into the possession of land by lawful title, but holds over by wrong, after his interest has ceased. He is not entitled to notice to quit, and he is not liable to pay rent. The landlord may dispossess such tenant wherever he pleases.

Of Title to Real Property by Descent. The real estate of any person who shall die without devising the

What is *real property*? *Personal property*? Who may hold real property? How are estates in land divided? What is a *fee* in land? What are *freeholds*? How does the title to real estate descend to heirs?

same, shall descend, in the following manner: (1.) to his lineal descendants; (2.) to his father; (3.) to his mother; and (4.) to his collateral relatives. If any of the children of an intestate be living, and any be dead, the inheritance shall descend to the children living, and to the descendants of those who are dead: so that such descendants may inherit the share which their parent would have received, if living. If the intestate shall die without lawful descendants, and leave a father, the inheritance goes to the father, unless the inheritance come to the intestate on the part of the mother. If he leaves neither father nor descendants, the inheritance descends to the mother; but if he leaves also a brother or sister, the mother holds it only during her life, and on her death, it descends to his brothers and sisters or their descendants. If he leaves neither descendants, nor father nor mother, the estate descends to his brothers and sisters or their descendants. But if there be no heir to take the inheritance in either of the above cases, the same shall descend to the brothers and sisters of the father, if the property shall have come to the intestate on the part of the father. If his father has no brothers and sisters, the estate descends to brothers and sisters of his mother. If the property comes to the intestate on the part of his mother, her brothers and sisters have precedence; and if the inheritance has not come to the intestate, on the part of either the father or mother, it shall descend, in equal shares, to the brothers and sisters of the intestate.

Proof of Title to Real Estate. Persons become possessed of real estate in various ways: but evidence of such possession consists usually in a writing called a *deed*, signed and sealed by the person who had a right to ex-

of persons intestate? How is proof to the title of real estate obtained? Are deeds in any caseлагatory before they are recorded?

ecute it, acknowledged by a proper person, and recorded in the public registry. Every deed conveying real estate, though it is, when duly executed, binding as between the parties, is nevertheless void as against any person who may subsequently purchase the conveyed estate in good faith, and for a valuable consideration, and whose deed shall be first recorded. Deeds, mortgages, and other securities in the nature of mortgages, are recorded by the clerks of the several counties, in books provided for that purpose.

A mortgage is the conveyance of an estate, by way of pledge for the security of debt, and to become void on the payment of it. The condition upon which the land is conveyed is usually inserted in the deed of conveyance, but the defeasance may be contained in a separate instrument; and if the deed be absolute in the first instance, and the defeasance be executed subsequently, it will relate back to the date of the principal deed, and connect itself with it, so as to render it a security in the nature of a mortgage. In order, however, to render the deed a security against subsequent purchasers and mortgagees, the deed and defeasance should be recorded together. An omission to have the defeasance registered, would make the estate, which was conditional between the parties, absolute against every person but the original parties and their heirs. The practice of placing the conveyance in fee, and the condition or defeasance which is to qualify it, in separate instruments, is liable to accidents and abuse, and injury to the mortgagor, and should be discouraged.

If the condition of a mortgage has been satisfied, the person in whose custody it may be, shall cause it to be discharged, whenever there shall be presented to him a

What is a *mortgage*? How is it conditioned? When the condition is fulfilled, what is done?

certificate, signed by the mortgagor, acknowledged or proved, and certified as the law prescribes to entitle conveyances to be recorded, specifying that the mortgage has been paid. And every certificate of discharge shall be recorded.

When a deed or mortgage has been executed, and before it shall be recorded, the party executing it acknowledges before a commissioner of deeds, (of whom there are four appointed in each town by the board of supervisors and county judges,) that he did execute the deed; and the commissioner subscribes a certificate of the acknowledgment on the margin or back of the instrument. Judges of the several courts of the state, are also authorized to take such acknowledgments. If a married woman signs a deed, the acknowledgment must be made to the commissioner, apart from her husband, that she executed the same freely, and without compulsion from her husband. If any married woman refuses to execute a conveyance, she retains her estate in dower, against any person claiming the conveyed premises.

Personal property is divided into chattels real and personal. *Chattels real* concern the realty, as a lease for years of land; and the duration of the time is immaterial. It is only personal estate, if it be for a thousand years. There are, also, many chattels which, though of a moveable nature, yet, being attached to the freehold, and contributing to its value and enjoyment, go with it; as the shelves and fixtures in a house, and the posts and rails of an enclosure. But many things are now treated as personal property which seem, in a degree, to be attached to the freehold. It is a general rule, that things which a

What is essential to a deed before it is recorded? By whom is it acknowledged? How are commissioners of deeds appointed? What are *chattels real*? What chattels attached to a freehold are moveable?

tenant has fixed to the freehold, for the purposes of trade or manufactures, may be removed, when the removal does not cause any material injury to the estate. Thus, fats, coppers, tubs and partitions, belonging to a soap boiler, have been removed. Chimney pieces, and even wainscot, put up by a tenant; or a cider mill and press erected by him, may be removed, if it can be done without material injury to the freehold. On the other hand, iron stoves, fixed to the brickwork of the chimneys of a house, have been adjudged to pass with the house as a part of the freehold. The right of removal depends upon the mode of annexation of the article, and the effect which its removal would have upon the premises.

A title to personal property may be acquired in various ways. A person has a right to all that his property produces. Such are the fruits of the earth, the increase of animals, and the increase of stock invested in trade or manufactures. Property is also acquired by one's own act and power; as his literary property, consisting of maps, writings and books, mechanical inventions, produced by his intellectual and manual labor. Goods and chattels are obtained also by transfer by act of law; as by judgment on a recovery by law in an action of trespass or trover; and by gift, which, in some cases, gives a valid title.

To give validity to a gift, there must be a delivery, at least so far as the subject is capable of delivery: if the thing cannot be delivered, there must be an act equivalent to it. The donor must part with both the possession and dominion of the property. If the thing given be *a chose in action*, the law requires an assignment, and the transfer must be actually executed. And gifts of goods and

ble? What are not? How is title to personal property acquired? How are gifts rendered valid? What is a *contract*? When is it

chattels, as well as of lands, made with intent to delay and defraud creditors, are void, as against the person to whom the fraud would be prejudicial.

Contract of Sale. A contract is an agreement between two or more persons by which the parties agree to do, or not to do, a particular thing. Contracts are *executory* when the stipulations remain to be executed; or when one party agrees to sell and deliver at a future time, for a stipulated price, and the other agrees to accept and pay. Contracts are express or implied. They are express, when parties contract in express words or by writing; and implied, when an act has been done which shows that the parties must have intended to contract: Thus, if a person employs another to do some service, it is presumed that the party employing intended to pay for the labor performed. To render a contract binding, there must be a legal consideration: something must have been paid or something given or done, as an inducement to the fulfilment of the contract. A contract to be valid, requires, (1.) that the thing sold has actual existence, and is capable of delivery; (2.) that a price must be fixed, or susceptible of being ascertained without further negotiation between the parties; and, (3.) that there be a mutual consent of the parties to the contract, which is binding when a proposition made by one party is accepted by the other.

In the sale of a chattel, as one's own property, if the possession be at the time in another, and there be no covenant or warranty of title, the party buys at his peril. But if the seller has possession of the article, and he sells it as his own property, he is understood to warrant the

executory? When is it express? When implied? What things are requisite to the validity of a contract? What constitutes a warranty of title? What is the law concerning the disclosure of

title. A fair price implies a *warranty of title*. With regard to the *quality* of the thing sold, the seller is not bound to make good any deficiency, unless he expressly warrant the goods to be sound and good, or unless he made a fraudulent representation concerning them. But a *moral* obligation rests on every person knowingly to conceal no fault in any article he sells. And if there be an intentional concealment or suppression by one party of a material fact, in a case wherein the other has not equal access to means of information, the contract is void. But when both have equal means of information, and neither says nor does anything to impose on the other, a disclosure of facts is not necessary to make the contract valid.

When the terms of sale are agreed on, and the bargain is struck, the contract is absolute without the actual delivery, and the property and the risk of accident to the goods, vest in the buyer. He is entitled to the goods on payment or tender of the price, and not otherwise, when nothing is said at the sale as to the time of delivery or the time of payment; for, though the vendee acquires the right of *property* by the contract of sale, he does not acquire the right of *possession*, until he pays or tenders the price. But if the goods are sold upon credit, and nothing is said as to the time of delivering the goods, the vendee is immediately entitled to the possession. To make a contract of sale valid, there must be a delivery, or tender of it, or payment, or tender of payment, an earnest given, or a memorandum in writing signed by the party to be charged; and if nothing of this kind takes place, it is no contract, and the owner may dispose of his goods as he pleases.

Defects in goods sold? When is the seller obliged to deliver goods sold? When does the buyer's right of property commence? When the right of possession?

All deeds of gift, and all transfers or assignments of goods or things in action, made in trust for the use of the person making the same, are void, as against creditors, existing or subsequent. No agreement that, by its terms, is not to be performed within one year from the making thereof; no special promise to answer for the debt, default, or miscarriage of another person; nor an agreement or promise upon consideration of marriage, except mutual promises to marry, shall be valid, unless such agreement, note or memorandum thereof, expressing the consideration, be in writing, and subscribed by the party to be charged. Contracts for the sale of goods for the price of fifty dollars or more, are void, unless they be in writing; or, unless the buyer receive a part of the goods or evidences, or pay, at the time, a part of the purchase money. And every sale or assignment of goods, by way of security, unless an actual delivery be made, and possession changed, is presumed to be fraudulent and void, as against the creditors of the vendor or assignor, or against subsequent purchasers in good faith, unless the persons claiming under the sale or assignment, make it appear that the same was made in good faith. And no assignment of goods and chattels, as security for any debt, is valid, as against the creditors of the assignor, or purchasers in good faith, unless such assignment be under seal, and filed in the office of the town clerk of the town in which the assignor resides; or, in the county clerk's office, if there be one in the town. And such assignment must be renewed at the expiration of one year from the date thereof, and from the date of each renewal.

What agreements are void? How are contracts for the sale and assignment of goods rendered valid? Where must assignments be

CHAPTER IX.

Of the Right of Property—continued.

Bailment is a delivery of goods in trust, upon agreement that the trust shall be executed, and the goods restored by the bailee, when the purpose of the bailment shall have been answered. If a person receives goods to be kept for the bailor, and to be returned on demand, without recompense, he is to keep them with reasonable care; and, unless there be a special undertaking to the contrary, he is responsible only for gross neglect, or for a violation of good faith. Gross neglect is a want of that care which every man of common sense takes of his own property. If a person undertakes, without recompense, to do some act for another in respect to the thing bailed; for instance, if he undertakes to carry an article from one place to another, he is responsible only for gross neglect, or a breach of faith. Whether a mandatary renders himself liable for a non-performance of a gratuitous undertaking, is a question on which writers on common law differ in some degree. But perhaps the prevailing opinion among us is, that a mandatary, or one who undertakes to do an act for another without reward, is not answerable for omitting to do the act, but is responsible only when he attempts to do it, and does it amiss. In other words, he is responsible for misfeasance, but not for nonfeasance, even though special damages be averred. If a person loan to another for use without reward, any article, as a horse, carriage, or book, and the article be lost or destroyed, without

blame or neglect imputable to the borrower, the owner must abide the loss. But the borrower must apply the thing to the use for which it was borrowed; and he must not keep it beyond the time limited; nor permit another person to use it. If property be pledged as security for some debt or engagement, the pawnee is bound to take ordinary care, and is answerable only for ordinary neglect; and if the goods should then happen to be lost, he may, notwithstanding, resort to the pawnor for his debt. If he derives any profit from the use of the property, he must apply the profits, after deducting necessary expenses, towards the debt. There is another species of Bailment, the hiring of property for a reward. The hirer is bound to use the article with due care and moderation, and not to apply it to any other use, or detain it for a longer period than that for which it was hired. If the article be injured or destroyed without any fault on the part of the hirer, the loss falls on the owner, for the risk is with him. In cases where work or care is bestowed on the thing delivered, for a recompence, the workman for hire must answer for ordinary neglect of the goods bailed; and apply a degree of skill equal to the undertaking; for every man is presumed to possess the skill requisite to the due exercise of the art or trade he assumes. If he performs the work unskillfully he is responsible in damages. As, if a tailor receives cloth to be made into a coat, he is bound to perform it in a workmanlike manner. Forwarding merchants are responsible for want of good faith, and of reasonable care and ordinary diligence, and not to any greater extent, unless the business and duty of carriers be attached to their other character. But with regard to

law in relation to property pledged or pawned? In relation of property hired for a reward? What in relation to articles on which labor is to be bestowed? With regard to innkeepers? Forwarding

innkeepers, the rule is more strict. In general, they are responsible for the acts of their servants, and for thefts, and are bound to take all possible care of the goods and baggage of their guests, on the ground of the profit they receive for their entertainment. But the innkeeper is not considered responsible for loss occasioned by unavoidable accident, or by superior force, as robbery.

A person who carries goods for hire, in a particular case, and not as a common carrier, is only answerable for ordinary neglect, unless he expressly assumes the risk of a common carrier. But if he be a common carrier, he is in the nature of an insurer, and is answerable for accidents and thefts, and even for loss by robbery. He is answerable for all losses except in cases of the act of God, and public enemies. Proprietors of a stage coach do not warrant the safety of passengers as common carriers; they are responsible only for the want of due care. But as public carriers, they are answerable for the loss of a box or parcel of goods, though ignorant of the contents. But if the owner be guilty of fraud or imposition, as by concealing the value or nature of the article, or deludes a carrier by treating the parcel as of no value, he cannot hold him liable for the loss of his goods. Carriers by water are liable to the same extent as land carriers. But the rule does not apply to post masters.

Principal and Agent. Agency is founded upon a contract, express or implied, by which one party entrusts to the other the management of some business; and by which the other assumes to do the business, and to render an account of it. The acts of a general agent, or one employed by another to do his business of a particular

merchants? How do carriers become responsible? In what cases are stage proprietors liable? What is the relation between principal and agent? How far is the principal bound by the acts of the

kind, will bind his principal, so long as he keeps within the general scope of his authority, though he may act contrary to his private instructions. But an agent, constituted for a particular purpose, and under a limited power, cannot bind his principal if he exceeds his power. The special authority must be strictly pursued; and whosoever deals with an agent constituted for a special purpose, deals at his peril, when the agent passes the limits of his power. If a person intrusts his watch to a watch maker to be repaired, and the watch maker sells the watch, the owner would not be bound by the sale. But a factor or merchant who buys and sells upon commission, or as agent for others, may sell on credit, and the principal must abide by the bargain, and the agent incurs no risk. There are some cases in which a factor sells on credit on his own risk; as when he acts for an additional premium; and the principal may call on him without first looking to the vendee. A factor cannot pledge the goods of his principal as security for his own debt. If an agent would excuse himself from responsibility, he must show that he disclosed his principal when he made the contract, and that he acted on his behalf, so as to enable the party with whom he deals, to have recourse to the principal, in case the agent had authority to bind him. And if the agent even buys in his own name, but for the principal, and without disclosing his name, the principal is bound, as well as the agent, provided the goods come to his use. An agent, ordinarily, has no right, without express authority, to employ a sub-agent to do his business, without the knowledge or consent of his principal.

An agent has a right to retain possession of property until his demand be satisfied. This right is called a *lien*. A *general lien* is the right to retain property for a general

agent? When does a factor sell on his own risk? What is a *lien*? A

balance of accounts; but a *particular* lien is a right to retain it only for a charge on account of labor employed, or expenses bestowed, upon the identical property detained. This is a privilege given by law to persons engaged in occupations necessary for the accommodation of the public. Upon this ground common carriers and innkeepers have a lien on property intrusted to them. A tailor has a lien upon the cloth put in his hands to be worked up into a garment. But he cannot hold them for any debt previously contracted.

Partnership is a contract of two or more persons, to place their money, labor or skill, in lawful commerce or business, and to divide the profit, and bear the loss, in certain proportions. It is a partnership if one advances the funds, and another furnishes the personal services, and is to share in the profits. Though there be no express articles of copartnership, if persons have a mutual interest in the profits and loss, or if they hold out themselves to the world as joint traders, they are held responsible as partners to third persons, whatever may be the nature of their connexion; and each member of the firm is answerable for the whole amount of the debts. But a party may by agreement receive, by way of rent, a portion of the profits of a farm or tavern; or a clerk or agent may receive a portion of the profits of sales as a compensation for labor, without becoming a partner.

By the laws of New York, a limited partnership may consist of one or more persons jointly and severally responsible, who are called *general* partners, and one or more persons who furnish certain funds to the common stock, but whose liability extends only to the amount of the fund furnished, and who are called *special* partners.

general and *particular* lien? What is a *partnership*? What law exists in this state respecting a connexion between general and

The names of the special partners are not to be used, nor do they transact any business for the firm. Before such a partnership can act, a register thereof, with a certificate signed by the parties, must be registered in the clerk's office of the county; and the terms of the partnership must be published for six weeks.

The act of each partner relating to the partnership, is considered the act of all, and binds all. But if a bill or note be drawn by one partner in his own name only, without appearing to be on partnership account, he alone is bound, though it was made for a partnership purpose. A partnership ceases as soon as the business is completed; and if the partnership be without a definite period, any partner may withdraw when he pleases, and dissolve the partnership; but if the term of partnership be definite, it cannot be dissolved before the expiration of the term, without the mutual consent of the partners; except by the death, insanity, bankruptcy or some other inability of one of the parties; or by judicial decree of the court of chancery in certain cases.

CHAPTER X.

Bills of Exchange—Promissory Notes—Banking and Insurance Companies.

A *bill of exchange* is a written order or request, from one person to another, to pay to a third person a certain

special partners? Is one partner bound by the acts of others? When do partnerships cease? What is a *bill of exchange*? Who is the

sum of money. If A., living in New York, wishes to receive \$1000, which await his orders in the hands of B., in London, he applies to C., going from New York to London, to pay him \$1000, and take his draft on B. for that sum, payable at sight. This is an accommodation to all parties. A. receives his debt by transferring it to C., who carries his money across the Atlantic, in the shape of a bill of exchange, without danger of robbery or loss; and on his arrival at London, he presents the bill to B., and is paid. A., who draws the bill, is the *drawer*; B., to whom it is addressed, is the *drawee*; and, on accepting it, he becomes the *acceptor*. C., to whom the bill is made payable, is called the *payee*. As the bill is payable to C., or his order, he may, by endorsement, direct the bill to be paid to D. In that case C. becomes the *endorser*, and D., to whom the bill is endorsed, is called the *endorsee*, or *holder*. A *check* is, in form and effect, a bill of exchange. It is not a direct promise on the part of the drawer to pay, but he is answerable if the drawee fails to pay. A check payable to *bearer* passes by delivery, and the bearer may sue on it as on an inland bill of exchange.

A *promissory note* is a written promise to pay or deliver to another a sum of money. If it be made payable to him or his order, or to *bearer*, it is called *negotiable*; and it may be sold or transferred to any other person, who has the same authority to sue for and collect the money, as the original promisee. When a note is payable to *bearer*, it passes without endorsement; but when it is payable to a person or his order, such person, the promisee, must endorse it by writing his name on the back of it, before any other person can receive the money. If the name of the payee or endorsee be left blank, any *bona*

drawer? Drawee? Acceptor? Payee? Endorser? Endorsee?
What is a *promissory note*? What is the difference between notes

fide holder may insert his own name as payee. The words *value received* are usually inserted in a note, but the note is good without them. If a note be taken after it is due, the buyer takes it at his risk; and the promisor may offset against it any payment which he may have made to the original holder.

If a bill has been accepted, demand of payment must be made when the bill falls due; and it must be made by the holder or his agent upon the acceptor, at the place appointed for payment, or at his residence, or upon him personally, if no particular place be appointed. The acceptor is allowed three days after the bill falls due, to pay; which are called *days of grace*. Three days of grace apply also to promissory notes.

Agents are appointed in all commercial places, who are called *notaries public*. In the state of New York, they are appointed by the governor and senate. One or more are appointed wherever a bank is located, or in other places of extensive commercial business. When a bill or note is not paid at the end of the three days of grace, a declaration thereof is made, by the holder of the paper, to the notary, who certifies, under seal, to the presentation and non-payment or non-acceptance of the note or bill, and gives notice thereof to the drawer or endorsers. This act is called a *protest*. The act done on the first application to a notary, is called *noting* a protest.

Banks. The first institution of this kind was in Italy, where the Lombard Jews kept benches in the market places, for the exchange of money and bills; and *banco* being the Italian name for bench, banks took their title from this word.

payable to *bearer* and to *order*? How must payment be demanded? What are days of grace? How are notaries public appointed? What is their business? Where were banks first instituted? What

The first banks are supposed to have been only *banks of deposit*, places where persons *deposited* or laid up their money for safe keeping, to be ready when called for. Another species of bank is a *bank of deposit and discount*. By *discounting* is meant the advancing of money on bills of exchange, or on promissory notes due at a future time, taking out of the sum the interest thereon to the time when the note will become due.

But banks in this country, differ materially at present from either of those above mentioned. They receive money in deposit, and they discount notes; but instead of paying gold or silver coin for such notes, they pay in their own notes, on which they are bound to pay the specie whenever demanded. These bank bills or notes circulate as money: hence our banks are called, *banks of deposit, discount and circulation*. A bank derives its powers and privileges from acts of incorporation by the legislature. It is a corporation composed of a number of individuals, who petition to the legislature to be incorporated. The act grants and defines the powers of the corporation, and expresses the amount of capital which is to constitute the fund on which the bank is to do business. This capital is divided into shares, (usually of \$100 each,) and sold; by which means the capital fund is raised. The owners of these shares are called *stockholders*, who choose from among themselves a certain number of directors, (ordinarily thirteen,) who, from their own number, choose a president. The president and directors choose a cashier and clerks.

Banks are allowed to issue bills to a greater amount than their capital stock. In the state of New York, banks may issue bills and discount notes to two and a half times

is a bank of deposit? What is discounting? What are banks in this country called? How incorporated? How is the stock raised?

The amount of their capital; which renders banking a profitable business, as the stockholders draw interest on a sum much greater than they have invested. Every six months the profits are divided among the stockholders. The sums thus divided are called *dividends*. If a bank cannot redeem all the bills it has issued, it is said to have failed, or to be broken. In this state, a fund is provided to indemnify the holders of bank bills against losses by the failure of banks. This fund is raised under an act passed in 1830, imposing a yearly tax of one half of one per cent. on the capital stock of the several banks, until such tax should amount to three per cent.; and whenever this fund shall become exhausted, taxation shall be again resorted to to replenish it. In some states the property, personal and real, of the stockholders, is pledged to the redemption of the notes of the banks.

Insurance Companies. These are corporations created for the purpose of insuring persons against losses by fire, or at sea, and sometimes on the risk of the duration of persons' *lives*; and they sometimes have the same powers and privileges as banks have, in regard to the issuing of bills. If a person wishes to be insured against fire, he applies to an agent of the company, who takes a survey of the building and property to be insured. The rate of insurance is then agreed on, which is a certain sum, say 50, 75, or 100 cents for every \$100 insured. The money paid for insurance is called *premium*; and the writing given by the agent, in behalf of the company, to the person insured, expressing the terms of insurance, is called a *policy*.

Companies for the assurance of lives, are less com-

To what amount may they issue bills and discount notes? What are meant by *dividends*? What provision is made in this state, to indemnify bill holders against bank failures? What are *insurance*

mon. Their purpose is to provide a fund for creditors, or family connexions, in case of death. The insurer, either for a sum in gross, or in yearly payments, agrees to pay a certain sum, or an annuity, upon the death of the person whose life is insured. Such contracts are well calculated to secure relief to the members of a family whose only dependence rests upon the life of a single person.

companies? How are insurances effected on property? How on lives?

OBSERVATIONS ON THE DUTIES OF CITIZENS.

IT has been asserted by the advocates of monarchy, that man is not capable of self-government. Because all former experiments at free government have failed, it is predicted that the free institutions of this country will be of short duration. And, from the fallibility of man, and the presumed imperfection of all human governments, not a few of the friends of liberty have been led to indulge in apprehensions of the inevitable dissolution of our political system.

But it should be remembered, that our government differs essentially, in its nature and formation, from any that has preceded it. Whereas others have been the result of mere chance, or of unavoidable necessity, ours is the contrivance of an assembly of men, not surpassed, perhaps, in point of wisdom and exalted patriotism, by any political body ever assembled. These men, aided by the light of their own experience, and of the history of other governments, deliberately planned that system of government, under which those comparatively feeble states have, in less than half a century, become a most powerful and increasingly prosperous nation—a system which commands the admiration of the friends of freedom throughout the world.

As with other institutions, so with governments, none can long endure that is not founded upon the imperishable principles of JUSTICE and TRUTH. It was the grand sentiment of those who first asserted our independence, that all just power in any government, is derived from the governed: and this sentiment has been carried out in the form of government which they subsequently adopted. The leading principles of our political institutions are,

that the proper object of all government ought to be, to promote, in the highest degree, the happiness of the people; and that the people are the only source whence political power can be justly derived.

One of the excellencies of our system, consists in a proper division and distribution of power among the several branches of the government, legislative, executive and judicial; and in the effectual guards provided by the constitution, to protect each from the encroachments of the other.

Another distinguishing characteristic of our constitution, is the extreme care with which it guards the rights of the people against infringement by official power. The ruler is made accountable to the people for his acts, and holds his power at their pleasure. But perhaps the only sure and unerring test of the value of our political institutions, lies in the happiness and prosperity which have been enjoyed under them.

But the excellence of our plan of government affords, of itself, no effectual security for its permanency. No institution, whatever may be its perfections, contains within itself, the principle of self-preservation. It would then be unwise to rest our government on its intrinsic excellence. It is the duty of every citizen to watch the approaches of danger, and to apply the means necessary to the preservation of our liberties.

Among the dangers to which our government is exposed, are the indifference and apathy of the people. Wherever political power is exercised, it is liable to abuse. The people have the power to apply the corrective. But the provision for a remedy is of no avail, if there be no disposition to apply it. Power is given to the people to be used; and he who neglects to do so, is guilty of a violation of an important trust. Bad laws cannot long exist in a free government, but by consent of the people themselves.

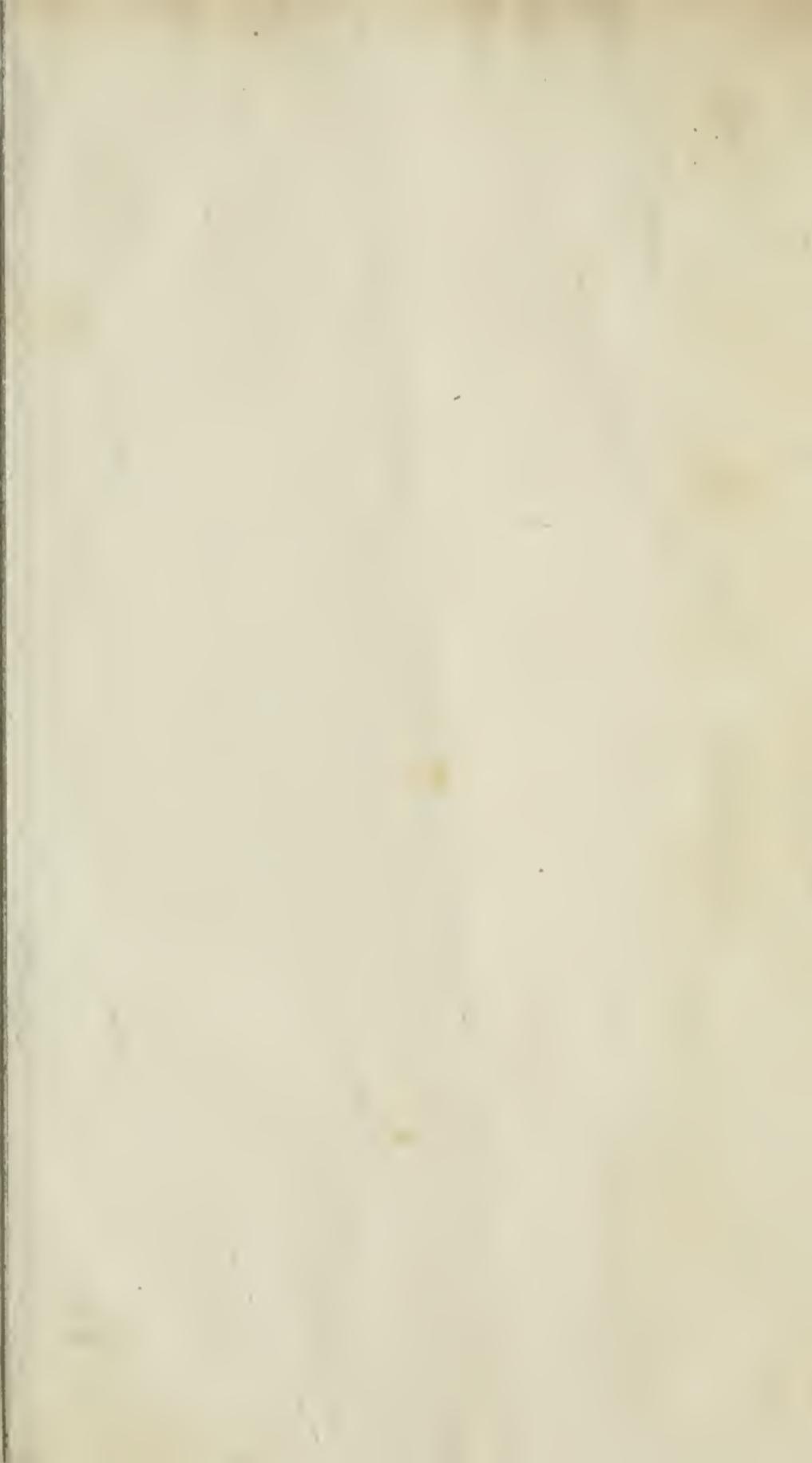
Another source of danger is the spirit of party. The opinion is often expressed, that parties hold a salutary check upon each other, and that their existence gives security to our political institutions. But it must be evident to any one who has observed the effects of party spirit among us, that the evils flowing from it, overbalance all the good which it can produce. Where freedom of opinion and of speech is tolerated, parties must necessarily exist to some extent; but their existence should be founded upon difference of opinion merely. But party spirit, when unrestrained, becomes intemperate and revengeful; and it is then that its pernicious effects are seen. Parties, contending for power, forget right, and lose sight of the public good. The rights of the minority are disregarded. Men, for difference of opinion, are made the subjects of proscription and persecution. In this state of things the strife is for *men*, without regard to *principle*; and candidates for public favor, who can hold out the greatest inducements, are most certain of success. And our periodical elections, instead of enabling the people to correct abuses, will prove a fruitful source of difficulty and confusion.

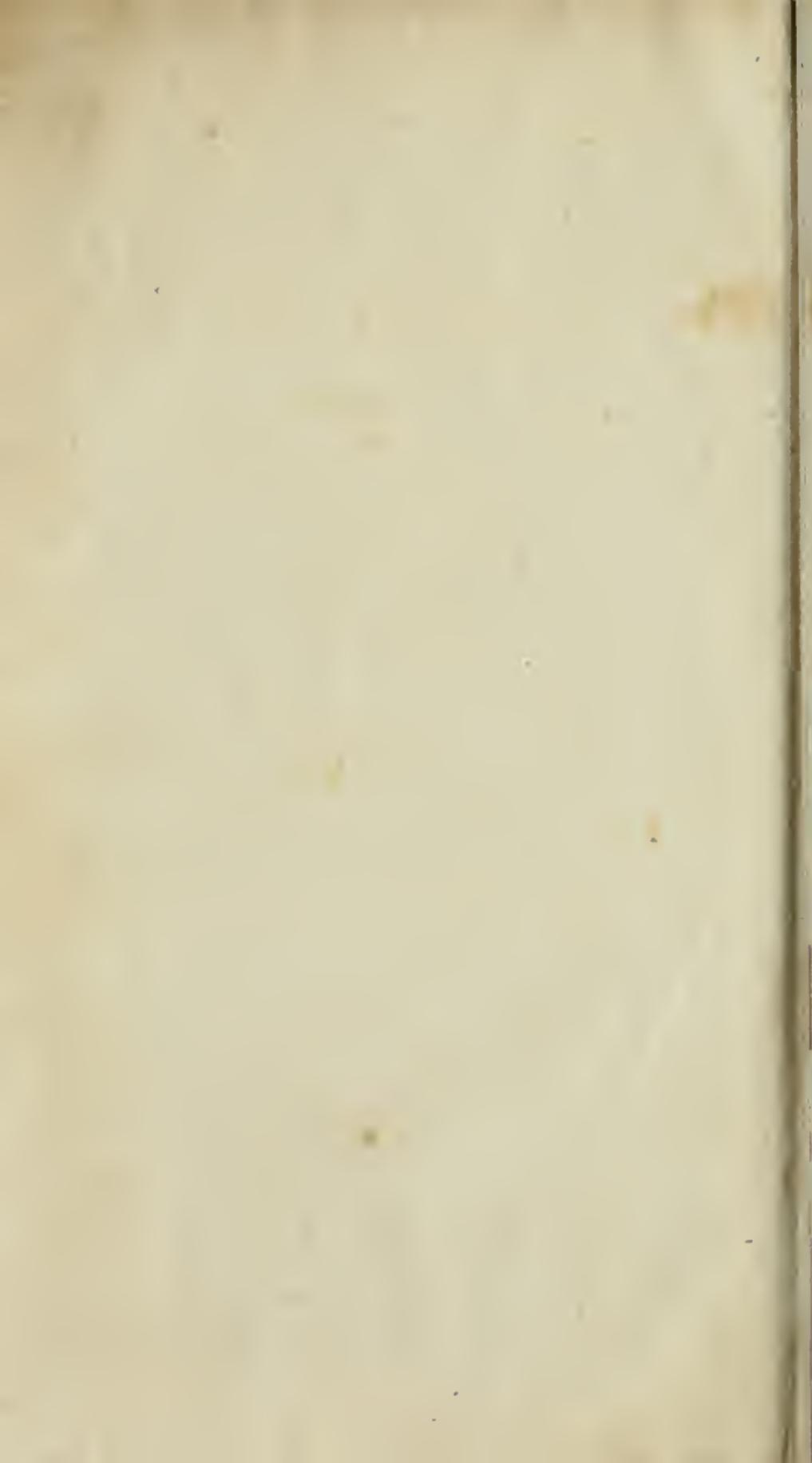
The only effectual security against these and other dangers to which our country is liable, is an enlightened and virtuous public sentiment. Free governments can be sustained only by an intelligent and virtuous community. Equality of rights and privileges cannot long exist, where the people have not the necessary knowledge to understand and maintain their rights. Education in free governments is indispensable; and it should always include a knowledge of the principles of government. The very idea of self-government implies a knowledge necessary to *govern*. Though all are not required to make and administer the laws, all should know their nature and their operation upon the general welfare. Men

entrusted with political power, often abuse and transcend their powers. An acquaintance with the constitution is necessary to discover and correct these abuses. It must then be an object of importance to encourage the general diffusion of useful knowledge.

But to render education truly efficient, it must be united with religious principle. It is not enough that the citizen understands his duties. Knowledge, unless it be applied to an object, answers no valuable purpose; if improperly used, it may be productive of great evil. Where the love of virtue does not govern the conduct of men, violations of the laws will be frequent, and the rights of individuals are unsafe. In a corrupted state of the public morals, bad men are most likely to obtain the public offices; unjust laws will be enacted; and civil and religious liberty endangered, if not totally destroyed. It was said by the wisest man of ancient times, that "righteousness exalteth a nation;" and it was the sentiment of him who was "first in the hearts" and confidence of Americans, that, "of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports."

Let every citizen be governed by these sentiments. Let education be properly encouraged, and its benefits be extended to all. Let our youth be instructed in their duties as members of society, and as citizens of a free government; and let them be taught to appreciate the blessings enjoyed under our invaluable constitution. Let every citizen feel himself individually responsible for his moral and political influence, and act with reference to the general good; and our republican institutions are safe. "*Let America be good, and America will be happy;*" and, whatever has been the fate of former republics, she will stand an enduring witness to the truth, that "**MAN CAN BE GOVERNED AND YET BE FREE.**"





John Mather

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